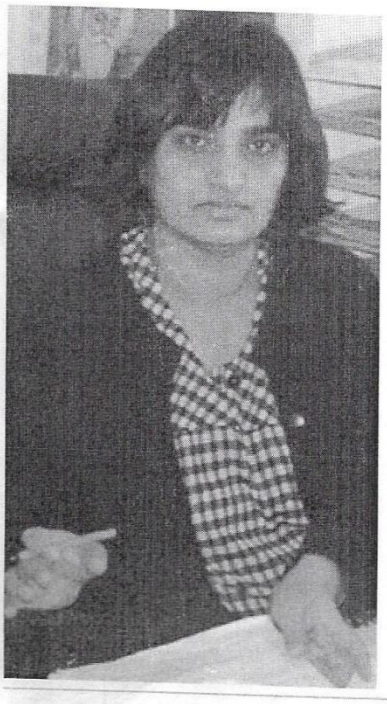
A	MATERIALS	
1	THE LAW SOCIETY'S CRUEL AND INHUMAN TREATMENT OF SOLICITORS	

1)	RANEE BASEE FOUND HUNG AFTER AN UNSUCCESSUL LEGAL PROBE

Mail Online

Solicitor haunted by fraud case is driven to suicide

Last updated at 22:04 24 June 2007



Ranee Bassi: Felt her firm's reputation had been "besmirched"

A solicitor has hanged herself in her office after her career was ruined by a fouryear fraud probe.

Rannee Bassi, a mother of three, was cleared of any wrongdoing but never recovered from the stress of the investigation, her family said.

The 50-year-old was accused of fraudulently claiming hundreds of thousands of pounds in legal aid for invented clients.

She campaigned to clear her name and produced witness statements from doctors and immigration officials who vouched that the clients did exist.

Her efforts paid off - but the probe by the Legal Services Commission left her firm, Bassi Solicitors, in financial crisis.

She felt her reputation had been damaged beyond repair, and lost faith in legal aid work, her husband Manga Powar said.

'My wife was a very respected lawyer. She helped many people in ethnic minority communities who felt they had no voice.

'But word somehow got out that we were being investigated for fraud. Rannee felt the firm had been tarred with a brush and that clients and other professionals were treating her differently.

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'She was mortified. She did everything she could to prove that these people existed, but then the commission suddenly switched the focus of the investigation to say she was claiming for more hours than she was working.'

Her brother Mandeep Bassi, a criminal lawyer with Mann & Co, said he had contacted the commission to explain the effect the inquiry was having on his sister's health.

She was depressed, he said, and at one stage she had been found wandering on the motorway in the middle of the night.

'Professional integrity was everything to her and she felt hers had

been besmirched beyond repair,' Mr Bassi said.

When her much-adored father died around the same time, her depression deepened.

On May 29 this year, while her three children, aged seven to 13, were with their father at the family home in Great Barr, Birmingham, Mrs Bassi sat alone in her office from 7pm.

Hours later, she erected a makeshift noose and hanged herself. She was found by her husband, who managed her practice, the following morning when he arrived for work. Mr Powar said: 'I thought she

was at her mother's house. I knew that my wife was affected by her father's death that happened during the inquiry.

'But the investigation was the start and end of everything.

'Rannee loved her children very, very much but she was just tipped over the edge by the stress of being portrayed as corrupt.'

A spokesman for the Legal Services Commission expressed regret at the death, but said the inquiry was necessary because of the need to properly account for public funds.

Mrs Bassi was initially accused of receiving at least 30 per cent more money than she was entitled to. While the inquiry was being conducted the commission reduced her firm's monthly payments from the usual £25,000 to £10,000.

Afterwards, it handed over £90,000 for previously disputed legal aid work carried out from March 2004 to January 2005.

Mr Powar said: 'My wife was finally vindicated by the inquiry but it ruined her life - and ultimately cost her her life. It should never have happened.'

He added: 'I've got to bring the boys up by myself and I'm going to close Rannee's company. All this - and for what?'

2) LAWRENCE MANN SHOT HIMSELF AND DIED. ACCUSED BY CASEWORKER OF DISHONESTY

On 28th September 1999 Lawrence Mann , a solicitor , shot himself and died.

At the Coroner's inquest which took place on 9th March 2000 at Kettering Coroners Court the Coroner remarked ' what a tragic waste of human life'

Mann and his partners had been charged with dishonesty. At the SDT hearing which took place on 16th Jan 2001 , all charges of dishonesty were dismissed . The partners were fined £5k for breach of account rules. The Chairman made a point of saying that the most serious finding against Mann was that he was careless. He noted that a caseworker (Mitcham) had spoken to him a day before the suicide to accuse him of dishonesty .

3) SOLICITOR A –' THEY HAVE SCARY GESTAPO LIKE POWERS'

From:	[redacted]
To:	asheikh@ashco.fsnet.co.uk
Date:	Oct 18 2005, 11:20 AM
Subject:	*** SPAM *** Intervention

Dear Miss Sheikh,

Good to speak to you this morning, and delighted to make the acquaintance of someone else in the Intervention Club, and to discover that you are taking action.

It has been a lonely path for me, professionally, for the past fifteen years, although I have a couple of good friends who are senior QCs. One of them helped me at the time of my Intervention, and later in respect of my Disciplinary Proceedings, although I am still not sure that the advice which he gave to me, not to appeal against the DP decision, was correct.

Be warned, that the LS has scary Gestapo-like powers, not all of which are immediately apparent. (If this sounds like paranoid ranting, forgive me, it isn't). Part of the breaking-down process involved not pursuing DPs against me for two years, so I did not know of what I was accused. When they did pursue them, and I attended a hearing, I was broke, miserable, and mentally destroyed with worry. When I showed the accusations to my QC friend, he assured me that I would just get a 'ticking-off'. But, they tricked me. The LS solicitor said that, if I agreed to certain matters, he would not bring up one matter (involving a client who was a complete rogue, and who had unjustifiably accused me of all sorts of stuff), because there was a civil dispute between us. He then did bring it up before the Tribunal, and, lo and behold, I was struck off. Somehow, in the decision, without any argument leading up to the conclusion, they managed to get the word 'dishonest' in. I have always assumed that this was to protect them from my taking them to court for unjustifiably destroying my practice and life.

Until now, I have only come across one other solicitor who has suffered intervention - the cousin of an old friend - who suffered because they suspected him of money-laundering. Years later, he is still waiting for DPs.

I am very interested in becoming involved in anything which will bring the evil that is within the OSS, as was, to light, but do not want to put my head over the parapet, for fear of getting shot at again. So, if you refer to me as Chris Buckland, that would be fine.

Speak soon, and I will happily do all I can to help,
ATB, Chris

4) SOLICITOR B

From: [redacted]
Sent: 13 October 2005 04:50 PM
To: Paul Saffron
Subject: Interventions

Dear Mr Saffron,

Starting at 4.30am this morning, having listened again to an item on Law In Action relating to the case of Sheikh v The Law Society, I started to read the case report. I have not yet finished reading it, but I have read enough.

Miss Sheikh's experiences match very closely my own experiences in 1989.

I was in practice on my own, in Lancaster, and had a busy and successful practice - one commercial matter, a corporate sale - in 1987, earned a fee of £32,000. I trained at Linklaters, and was a partner with Amhurst Brown, in Duke St., St James's, before coming north in 1982 and setting up my own practice. In August 1989, I had a visit from the Law Society accountants. I had been reported as I had, innocently, but stupidly, not knowing that it was against the rules to do so, paid a personal item from (property development) funds jointly held by my wife and myself in Client account by client account cheque. The accountant found something else wrong, in that two lots of stamp duty, totalling £5,000, had been paid into Office Account, rather than Client Account. Again, this was stupidity - a member of staff who did conveyancing for me had suggested it, and I sanctioned it.

The accountant notified me about what needed to be put right. I did this immediately (within two days), and wrote a letter to the OSS to explain that the £5,000 had been transferred to the appropriate Client accounts, and from where those funds had come.

Later that week, I received a letter from the OSS, in exactly the same terms as the note from the accountant. Again, stupidly, I believed that my lengthy letter to the OSS would have been sufficient to answer the letter which I had received, so I did not write to the OSS to explain what I had done.

On 12th or 13th December, I received a letter from the OSS, to say that the Law Society would intervene upon my practice on Friday 15th December. The solicitor carrying out the intervention (I imagine that the procedure has changed) was David Thompson, of Blackhurst, Parker and Yates, whose offices were immediately next door to mine.

I went to London first thing the next morning, having, that evening, consulted a solicitor in Chester, who had little idea of procedure, and at 2pm applied to the Judge in Chambers for an Injunction. I had the greatest difficulty in persuading the Law Society solicitor, and Mr Stringer of the OSS that I had written the letter, and paid the £5K back into Client Account, but with a fax from my accountant etc, I managed to obtain an arrangement based on an undertaking, which allowed me to continue in practice.

Part of this arrangement was that I should take my Client account cheque book and print-outs next door to David Thompson, to have checked any withdrawals. Humiliating, but it could have been worse.

My application to set aside the Intervention was adjourned to a date in February, where it was to be heard in camera. I could not afford legal representation, so represented myself

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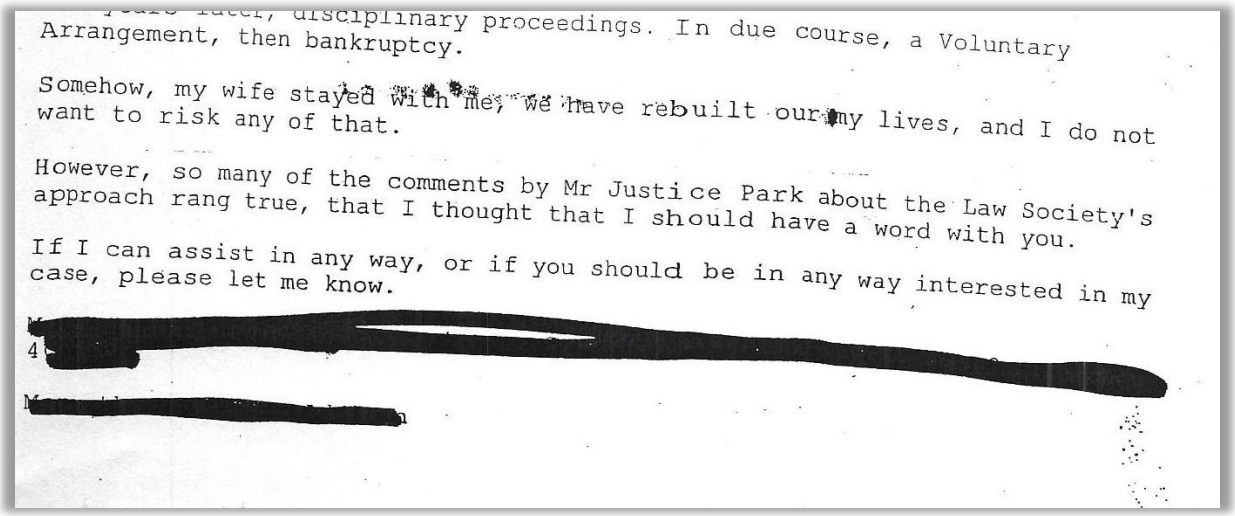

disciplinary proceedings. In due course, a Voluntary Arrangement, then bankruptcy.

Somehow, my wife stayed with me, we have rebuilt our my lives, and I do not want to risk any of that.

However, so many of the comments by Mr Justice Park about the Law Society's approach rang true, that I thought that I should have a word with you.

If I can assist in any way, or if you should be in any way interested in my case, please let me know.

[redacted]

5) SOLICITOR C . HOUSE RAIDED

On 25th January this year the Law Society came into our small City office without prior warning and closed us down – they 'intervened in our practice'. We were immediately barred from practising, and all our clients had to find other solicitors to take over the work which we were doing. We remain liable for all the practice's debts, but, even where bills had been delivered before the intervention, we are not allowed to receive any payments. We have been ruined.

During the investigation, which took the form of two visits to our office by investigators (who were not legally qualified) in June and August 2004, followed by the completion by us of three detailed questionnaires in November 2004, the Law Society undertook in writing on four occasions that, if the investigators thought we had done anything wrong,, they would show us their report and give us the chance to answer any allegations before any further action was considered.

The Law Society broke its promises, and closed us down without our being given any chance to put our case to the internal 'adjudication panel' which considered the matter. We saw the investigation report first on 25th January. It consisted of a 35-page 'Forensic Investigation' report dated 13th December 2004, and 459 pages of exhibits, taken largely from our files. However, once we had scrutinised it carefully, we realised that it was highly misleading. It alleged that we had somehow failed to hand over to the LS a complete client correspondence file of150 pages – which they had copied on their first visit. The report included the allegedly missing material, of which 59 pages appeared twice! There was no complaint about the content of this 'missing' file. The report also contained 39 pages – in effect a fourth questionnaire – including many serious allegations, which were never put to us. The implication was that these were questions which we had failed to answer satisfactorily – whereas in fact we had never even seen the questions. Then again the report entirely omitted the detailed answers (and many pages of evidence) we had given in response to the second questionnaire. Finally, and perhaps most misleading of all, the report failed to mention our comprehensive disclosure to NCIS.

We said that we believed, and believe, that N's transactions were not fraudulent. They were genuine insurance matters, which we understood, and in relation to which we had provided genuine legal services for N. We denied that any trust existed for N's clients. We said we had held money for N alone. What we had done was analogous with the holding of deposits by vendors' solicitors in domestic conveyancing. During the investigation we invited the Law Society to explain their view of the law, and undertook to change our practice if they showed we were wrong. They did not reply.

In preparation for the hearing, we asked the Law Society's solicitors to allow us to inspect our files, which they had taken. In particular, we wanted to see if we could locate the allegedly missing material, which we feel must have been misfiled by the LS when they were copying our files last August. The LS were very reluctant to let us inspect the files. They demanded that we pay in advance for the cost of their solicitors to supervise the inspection; then when we pointed out that this was unreasonable, they simply failed to answer letters. At one point thirteen letters to their solicitors remained unanswered!

We believe that the Law Society, having received a copy of our report NCIS, (as they routinely pass copies of disclosures to professional regulators), cynically decided that they could manufacture a case against us and close us down, bankrupting us so we would be unable to challenge them, after which they could claim another 'scalp' as 'effective regulators', thereby justifying their claim to be able to continue regulating the solicitors' profession rather than conceding that an independent regulator

incapable of success. I believe that we are suffering from the Law Society investigators' lack of familiarity with some of the more sophisticated insurance mechanisms, and their unwillingness to believe what they are told by their solicitor members.

incapable of success. I believe that we are suffering from the Law Society investigators' lack of familiarity with some of the more sophisticated insurance mechanisms, and their unwillingness to believe what they are told by their solicitor members.

6) SOLICITOR D 'STOP THE INVESTIGATION SIC INTO MR JEREMY BARNECUTT, CHAIRMAN OF THE SOLICITORS DISCIPLINARY PANEL, OR YOUR FAMILY WILL PAY'

There is evidence that the Law Society also targets family members of the Solicitor.

Mrs C was a Solicitor. Her husband was an accountant. He was assisting one of his clients in a breach of duty claim against Mr Jeremy Barnecutt , Vice President of the Solicitors' Disciplinary Tribunal , which was indefensible.

The husband received a telephone call from a person who threatened him:

Drop the claim, or your family will pay

7) SOLICITOR E IMPRISONED FOR DISCLOSING LAW SOCIETY DOCUMENTS IN BREACH OF RESTRAINING ORDER. HE HAD SHOWED THEM TO THE SOLICITOR HE HAD INSTRUCTED TO SET ASIDE THE RESTRAINING ORDER.

Solicitor E had obtained documents from the Law Society through the disclosure procedure. The documents were highly incriminating for the Law Society.

The Law Society obtained a court order behind Solicitor E's bank, restraining him from showing the documents to any other person. He instructed another solicitor to set aside the restraining order and showed her the documents. The Law Society had Solicitor E arrested in the courtroom as he was applying to set aside the order, and had him imprisoned.

He waited for years for an appeal in relation to the sham Solicitors' Disciplinary Tribunal proceedings the Law Society had subjected him to. He remained unemployed, traumatised and was under medical treatment for severe depression. He had a small baby.

8) BAXENDALE WALKER'S RECORDINGS OF ANTHONY ISAACS, CHAIRMAN OF THE SOLICITORS DISCIPLINARY PANEL, 'WE CAN FIX ANYTYHING AT THE SDT'

Mr Baxendale Walker was a leading tax specialist whom the Law Society had targeted for many years. He made allegations which mirror my own namely that solicitors are targeted , false charges are brought against them, sham hearings are conducted and false judgments are drawn up and published.

Mr Baxendale Walker has tape recordings of conversations between Mr Middleton and Mr Isaacs in which Mr Isaacs says

We can fix anything at the SDT

A restraining order has been made preventing Mr Baxendale Walker from disclosing the recordings, which over 20 years later is probably still in place.

9) THE TORTURE OF MY LATE MOTHER IN TH LAW SOCIETY'S SHEIKH –NRAM REMORTAGE MONIES CONSPIRACY AND IN THE RED RIVER CONVEYANCING AND MORTGAGE FRAUD

Central and North West London NHS

NHS Foundation Trust

NHS no. 466 202 0115

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Speciality Dr. to Dr. Prabhakaran
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13th May 2010

Dear Dr. Jeyakanthan,

Re: Mrs. R. Sheikh (29.9.28)
33 Mountside, Stanmore, Middlesex HA7 2DS

Thank you for your referral of Mrs. Sheikh to the Psychology Service in December 2009. Mrs. Sheikh was asked to opt in to our service which she did at the end of January 2010 and I met with Mrs. Sheikh and her daughter at Bentley House on 8th April.

As you know, Mrs. Sheikh and her daughter are involved in complex legal proceedings and this subject dominated the session. The case was currently in court and Mrs. Sheikh said that she had received bankruptcy petitions and that she had been served some papers by hand and that this was done so roughly, her finger had been damaged. She seemed very overwhelmed by it all and said that she was feeling so distressed that she was forgetting to take her medication. She said that she felt so bad that she sometimes felt that she could just walk out or take an overdose of pain killers to get away from it all. When we explored this further she said that she wouldn't do it because she has to be around to look after her daughter.

At times, it appeared that Mrs. Sheikh did not understand what was going on legally [redacted]
Mrs. Sheikh's daughter did not think that her mother should be called to appear in court and wondered whether our service could do anything to support her in not having to go. They said that they had no money for food or to pay bills and Miss Sheikh had no time to claim benefits.

I told Mrs. Sheikh and her daughter that I would discuss the case further with you and ask if it would be appropriate for Mrs. Sheikh to be reviewed in view of the deterioration

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2 TABLES

1) ABBREVIATIONS FOR THE 1941 ACT GROUNDS

1941 ACT GROUNDS		
ABBREVIATED WORDING	FULL WORDING	REFERENCE
Dishonesty by Solicitor or Ors		

2) ABBREVIATIONS FOR THE 1957 ACT GROUNDS

1957 ACT GROUNDS		
ABBREVIATED WORDING	FULL WORDING	REFERENCE
Dishonesty by Solicitor or Ors	If the Council have reasonable cause to believe that solicitor, or a clerk or servant of a solicitor, has been guilty of dishonesty in connection with that solicitor's practice as a solicitor or in connection with any trust of which that solicitor is a trustee	s. 31 (1) 1957 Act
Solicitor Struck Off With No Arrangements	Where the name of a solicitor is removed from or struck off the roll or a solicitor is suspended from practice, that solicitor shall within twenty-one days from the material date satisfy the Council that he has made suitable arrangements for making available to his clients or to some other solicitor or solicitors instructed by his clients or by himself— (a) all deeds, wills, documents constituting or evidencing title to any property, papers, books of account, records, vouchers and other documents in his or his firm's possession or control, or relating to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and (b) all sums of money due from him or his firm to, or held by him or his firm on behalf of, his clients or subject to any such trust as aforesaid,	s. 31 (2) 1957 Act

3) ABBREVIATIONS FOR THE 1965 ACT GROUNDS

1965 ACT GROUNDS			
GROUND	ABBREVIATED WORDING	FULL WORDING	REFERENCE
Ground 1	Dishonesty by Solicitor or Ors	If the Council have reasonable cause to believe that solicitor, or a clerk or servant of a solicitor, has been guilty of dishonesty in connection with that solicitor's practice as a solicitor or in connection with any trust of which that solicitor is a trustee	s. 31 (1) 1957 Act
Ground 2	Solicitor Struck Off With No Arrangements	Where the name of a solicitor is removed from or struck off the roll or a solicitor is suspended from practice, that solicitor shall within twenty-one days from the material date satisfy the Council that he has made suitable arrangements for making available to his clients or to some other solicitor or solicitors instructed by his clients or by himself— (a) all deeds, wills, documents constituting or evidencing title to any property, papers, books of account, records, vouchers and other documents in his or his firm's possession or control, or relating to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and (b) all sums of money due from him or his firm to, or held by him or his firm on behalf of, his clients or subject to any such trust as aforesaid,	s. 31 (2) 1957 Act
Ground 3	No Explanation for Delay	(a) a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which he or his firm has been instructed on behalf of a client or any matter which relates to the administration of a trust of which that solicitor is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and (b) the Society has by notice in writing invited the solicitor to give an explanation in respect of that matter; and (c) the solicitor has, within a period of not less than eight days specified in the said notice, failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and (d) the solicitor has been notified in writing by the Society that he has so failed,	s. 12
Ground 4	Bankruptcy or Mental Health Act Case AND Delay and Client Money at Risk	1) Where a solicitor practises in his own name or as a sole solicitor under a firm name and— (a) is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or (b) has entered into a composition with his creditors or	s. 11

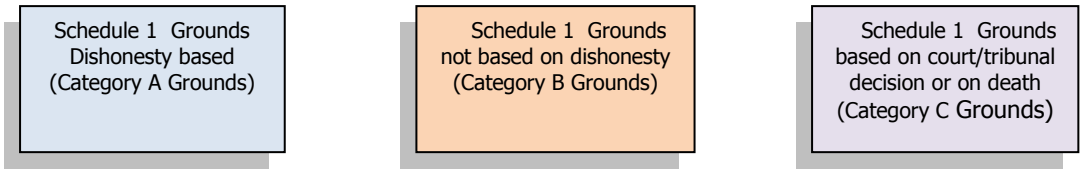
		a deed of arrangement for the benefit of his creditors; or (c) has had an order of committal or an order for the issue of a writ of attachment made against him; or (d) is a patient as defined by section 101 of the Mental Health Act 1959 or a person as to whom powers are exercisable and have been exercised under section 104 of that Act, and the Council have reasonable cause to believe that in consequence of the act or default of the solicitor or of any clerk or servant of his— (i) there has been undue delay in connection with any matter in which that solicitor or his firm has been instructed on behalf of a client or any matter which relates to the administration of a trust of which that solicitor is the sole trustee or co-trustee only with one or more of his clerks or servants; or (ii) any sum of money due from the solicitor or his firm to, or held by him or his firm on behalf of, his clients or subject to any trust of which he is such sole trustee or co-trustee as aforesaid is in jeopardy while in the control or possession of such solicitor or his firm,	
Ground 5	Delay by Personal Representative	the Council have reasonable cause to believe that the personal representatives of a deceased solicitor who immediately before his death was practising as a solicitor in his own name, or as a sole solicitor under a firm name, have been guilty of dishonesty or **undue delay** in administering the affairs of that solicitor's practice or in connection with any trust of which that solicitor was the sole trustee or co-trustee only with one or more of his clerks or servants; or	s. 13 (1) (a)
Ground 6	Dishonesty by Personal Representative	the Council have reasonable cause to believe that the personal representatives of a deceased solicitor who immediately before his death was practising as a solicitor in his own name, or as a sole solicitor under a firm name, have been **guilty of dishonesty** or undue delay in administering the affairs of that solicitor's practice or in connection with any trust of which that solicitor was the sole trustee or co-trustee only with one or more of his clerks or servants; or	s. 13 (1) (a)
Ground 7	Deceased Sole Solicitor Subject to Sch. 1	a solicitor dies and immediately before his death the provisions of Schedule 1 to the principal Act applied to him	s. 13 (1) (b)

4) ABBREVIATIONS FOR THE 1974 ACT GROUNDS

1974 ACT GROUNDS			
GROUND	ABBREVIATED WORDING	FULL WORDING	REFERENCE
Ground 1	Dishonesty by Solicitor or Ors	The Council have reason to suspect dishonesty on the part of (i)a solicitor, or (ii)an employee of a solicitor, or (iii)the personal representatives of a deceased solicitor, in connection with that solicitor's practice or in connection with any trust of which that solicitor is or formerly was a trustee ;	1(1) (a)
Ground 2	Delay by Personal Representative .	the Council consider that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before his death was practising as a sole solicitor in connection with that solicitor's practice or in connection with any controlled trust;	1(1) (b)
Ground 3	Breach of Account Rules	the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;	1(1) (c)
Ground 4	Bankruptcy	a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors ;	1(1) (d)
Ground 5	Prison	a solicitor has been committed to prison in any civil or criminal proceedings;	1(1) (e)
Ground 6	Mental Health Act Cases	The powers conferred by section 104 (emergency powers) or 105 (appointment of receiver) of the [1959 c. 72.] Mental Health Act 1959 have been exercised in respect of a solicitor;	1(1) (f)
Ground 7	Solicitor Struck Off/Suspended	the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.	1(1) (g)
Ground 8	No Explanation for Delay	a)a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which the solicitor or his firm was instructed on behalf of a client or with any controlled trust; and (b)the Society by notice in writing invites the solicitor to give an explanation within a period of not less than 8 days specified in the notice ; and (c)the solicitor fails within that period to give an explanation which the Council regard as satisfactory; and (d)the Society gives notice of the failure to the solicitor and (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable.	Para 3

5) LEGEND

In the diagrams in this Part. the following code applies



6) SUMMARY OF THE 1941 ACT GROUNDS

. SUMMARY OF THE 1941 ACT GROUNDS		
GROUNDS		SCHEDULE 1 PROCEDURE: QUALIFICATIONS, CONDITIONS AND EXCEPTIONS
Category A Grounds . Decision by the Law Society. Solicitor's Dishonesty		
Ground 1	Dishonesty by Solicitor or Ors Section 2	Para 5 of Schedule 1 (Statutory Freezing Order) applies subject to Satisfaction of Guilt Requirement

7) SUMMARY OF THE 1957 ACT GROUNDS

SUMMARY OF THE 1957 ACT GROUNDS		
GROUNDS		SCHEDULE 1 PROCEDURE: QUALIFICATIONS, CONDITIONS AND EXCEPTIONS
Category A Grounds . Decision by the Law Society. Solicitor's Dishonesty		
Ground 1	Dishonesty by Solicitor or Ors Section 31 (1)	Para 7 of Schedule 1 (Statutory Freezing Order) applies subject to Satisfaction of Guilt
Category C Grounds . Decision based on Tribunal or Court's Decision		
Ground 2	Solicitor Struck Off With No Arrangements Section 31 (2) (a)	

8) SUMMARY OF THE 1965 ACT GROUNDS

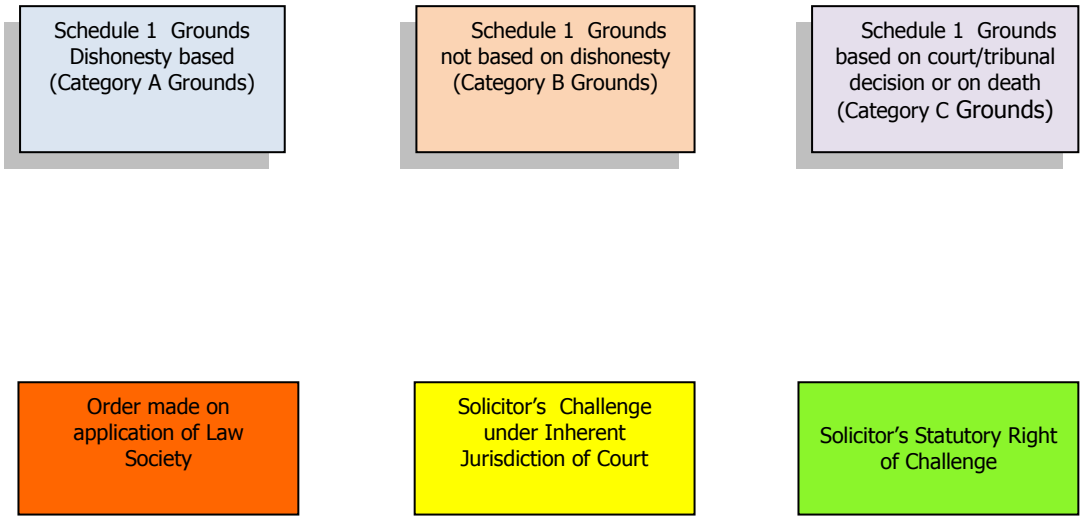
SUMMARY OF THE 1965 ACT GROUNDS.		
GROUNDS		SCHEDULE 1 PROCEDURE: QUALIFICATIONS, CONDITIONS AND EXCEPTIONS
Category A Grounds . Decision by the Law Society. Solicitor's Dishonesty		
Ground 1	Dishonesty by Solicitor or Ors 1957 Act Clause 31 (1)	Para 7 of Schedule 1 (Statutory Freezing Order) applies subject to Satisfaction of Guilt
Category B Grounds . Decision by the Law Society. Other		
Ground 3	No Explanation for Delay 1965 Act s. 11	Para 7 of Schedule 1 (Statutory Freezing Order) does not apply Para 8 of Schedule 1 (Mail Redirection Procedure) does not apply Documents Production Procedure only applies to the matter complained of Para 10 (1965 Act Non Vesting Resolution) only applies to the matter complained of Para 6 . Law Society can take copies
Ground 5	Delay by Personal Representative 1965 Act s. 13 (1) (a)	
Ground 6	Dishonesty by Personal Representative 1965 Act s. 13 (1) (a)	Para 7 of Schedule 1 (Statutory Freezing Order) does not apply
Ground 7	Deceased Sole Solicitor Subject to Sch. 1 1965 Act s.13 (1) (b)	Para 7 of Schedule 1 (Statutory Freezing Order) does not apply
Category C Grounds . Decision based on Tribunal or Court's Decision		
Ground 2	Solicitor Struck Off With No Arrangements 1957 Act s. 31 (2) (a)	
Ground 4	Bankruptcy or Mental Health Act Case AND Delay and Client Money at Risk 1965 Act s. 12	Para 7 of Schedule 1 (Statutory Freezing Order) does not apply . Para 6 . Law Society can take copies

9) SUMMARY OF THE 1974 ACT GROUNDS

SUMMARY OF THE 1974 ACT GROUNDS.		
GROUNDS		SCHEDULE 1 PROCEDURE: QUALIFICATIONS, CONDITIONS AND EXCEPTIONS
Category A Grounds . Decision by the Law Society. Solicitor's Dishonesty		
Ground 1	Dishonesty by Solicitor or Ors Para 1(1) (a)	
Category B Grounds . Decision by the Law Society. Other		
Ground 2	Delay by Personal Representative. Death of Sole Solicitor. Para 1(1) (b)	Para 2 provides that Para 6 (Vesting Resolution Provisions) , Para 7 (Possession of money) and Para 8 (Court order where money held by third party) only apply to Client Account . (A Statutory Freezing Order was available in relation to both Office and Client Account)
Ground 3	Breach of Account Rules . Para 1(1) (c)	Para 1(2) provides that Part II Provisions are exercisable only if notice in writing is given to the solicitor that the Law Society is satisfied of the rule breach
Ground 8	No Explanation for Delay Para 3	1. Part II Provisions exercisable only (1) if Solicitor having been invited to provide an explanation within 8 days fails to do so (2) notice is given of failure (3) notice is given that Part II Provisions will be exercised 2. Statutory Freezing Order Procedure does not apply Para 5 (4) 3. The 1974 Act Vesting Resolution only applied to money to which the complaint relates Para 6 (2) (c) 4. Where Para 9 (Documents) applies, it only applies to the documents to which the complaint relates 5. Mail Redirection Procedure does not apply Para 10 (3)
Category C Grounds . Decision based on Tribunal or Court's Decision		
Ground 4	Bankruptcy Para 1(1) (d)	
Ground 5	Prison Para 1(1) (e)	
Ground 6	Mental Health Act Cases Para 1(1) (f)	
Ground 7	Solicitor Struck Off/Suspended Para 1(1) (g)	

3 DIAGRAMS RELATING TO PROCEDURE

In the diagrams in this Part. the following code applies



THE SOLICITORS ACT 1941 INTERVENTION PROCEDURE

S.2
Claim against the Compensation Fund

Para 2 Sch. 1 Para 4
GROUND 1
Reasonable cause to believe the Solicitor has been guilty of dishonesty resulting in a (successful) claim against the Compensation Fund

Only if **satisfied** about dishonesty

Para 5 Statutory Freezing Order Application (Para 4(5) Supplemental Freezing Order

Solicitor's Defence Freezing Order only

Application for Order For Transfer of Frozen Money

Solicitor's Defence to Transfer Order Application

Para 4 (1)
Documents: Voluntary Production

Para 4 (2)
Documents Production Order (Certain or All Documents) Application

Solicitor's Defence to Documents Production Order Application

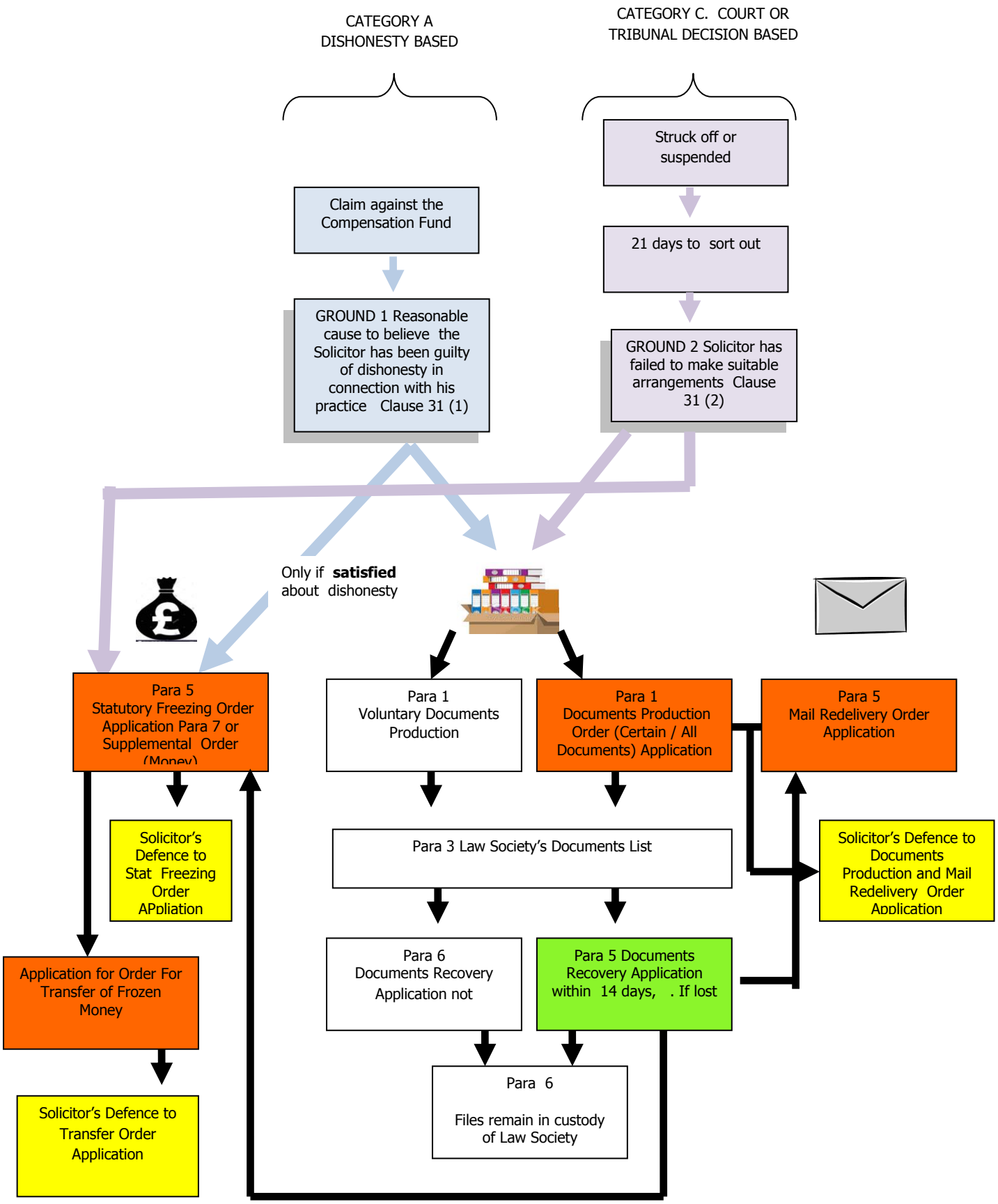
Para 4 (3) Law Society serves Documents List

Documents Recovery Application not made

Para 4 (5).
Documents Recovery Application within 14 days, If lost

Para 4 (6)
Files remain in custody of Law Society

THE SOLICITORS ACT 1957 INTERVENTION PROCEDURE



THE SOLICITORS ACT 1965 INTERVENTION PROCEDURE

CATEGORY B. DECISION BY LAW SOCIETY

CATEGORY C. DECISION BY COURT OR TRIBUNAL

CATEGORY A
DISHONESTY BASED

Complaint by client or ano

GROUND 1
Reasonable cause to believe the Solicitor has been guilty of dishonesty in connection with practice **1957 Act Clause 31**

Complaint of delay

Notice (Explanation of Delay)

Solicitor fails to provide explanation after 8 days

GROUND 3
Undue delay **Clause 11**

GROUND 7
Deceased Solicitor subject to Sch 1 Powers **Clause 13 (b)**

GROUND 6
Reason to suspect dishonesty against PRS **Clause 13 (1) (a)**

GROUND 5
Undue delay by PRs **Clause 13 (1) (a)**

Disciplinary hearing

21 days to sort out **Clause 31 (2) 1957 Act**

GROUND 2
Struck off or suspended **Clause 31 (2) 1957 Act**

GROUND 4 Sole practitioner - undischarged bankrupt etc committal order, MHA patient AND undue delay or money at risk **Clause 12**

Only in relation to files complained of

Only if satisfied about dishonesty

Para 7
Statutory Freezing Order Application

Solicitor's Defence

Application for Order For Transfer of Frozen Money

Solicitor's Defence

Para 1
Voluntary Delivery up of Documents.

Para 1
Documents Production Order Application

Para 8
Mail Redelivery Order Application

Solicitor's Defence to Documents Production and Mail Redelivery Order Application

Para 3. Law Society serves Documents List,

No Documents Recovery Application.

Documents Recovery Application within 8 days plus 6 days (14) Para 5 If lost

Para 9 & Para 10
Non Vesting Resolution where Documents Recovery Application fails or none made

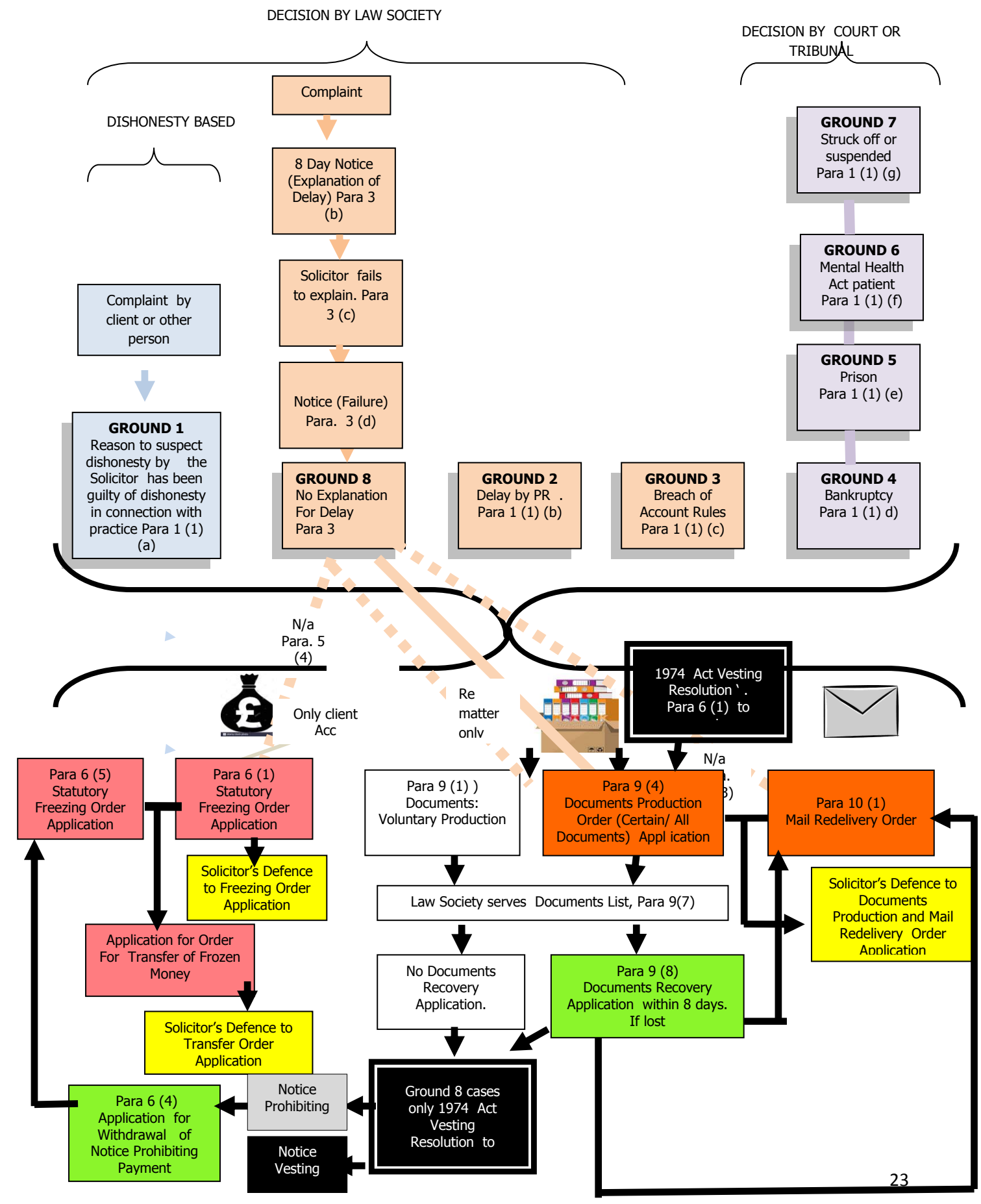
Para 6
Documents remain with Law Society

Para 12 & Para 13
Bank Transfer on notice of 8 days by consent

Application of Withdrawal of Notice Prohibiting Payment Out within 14 days. Para

Clause 14 (outside Schedule 1 Provisions) provided that in the case of death, the Law Society had the power to operate the Solicitors Bank Accounts which **'vested'** in the Society to the exclusion of the rights of the personal representatives.

VERSION 1- THE 1974 ACT INTERVENTION PROCEDURE PARLIAMENT INTENDED TO ENACT AND WHICH IS ENACTED



VERSION 2 –THE 1974 ACT INTERVENTION PROCEDURE WHICH APPEARS TO HAVE BEEN ENACTED

DECISION BY LAW SOCIETY

DECISION BY COURT OR TRIBUNAL

DISHONESTY BASED

Complaint

8 Day Notice (Explanation of Delay) Para 3 (b)

Solicitor fails to explain. Para 3 (c)

Notice (Failure) Para. 3 (d)

Complaint by client or other person

GROUND 1 Reason to suspect dishonesty by the Solicitor has been guilty of dishonesty in connection with practice Para 1 (1) (a)

GROUND 8 No Explanation For Delay Para 3

GROUND 2 Delay by PR . Para 1 (1) (b)

GROUND 3 Breach of Account Rules Para 1 (1) (c)

GROUND 7 Struck off or suspended Para 1 (1) (g)

GROUND 6 Mental Health Act patient Para 1 (1) (f)

GROUND 5 Prison Para 1 (1) (e)

GROUND 4 Bankruptcy Para 1 (1) d)

N/a Para. 5 (4)

Re matter only

Re matter only

N/a Para.

Para 5 (1) Statutory Freezing Order Application

Solicitor's Defence to Freezing Order Application

Para 7 Application for Tranfser of Money Order.

Solicitor's Defence to Transfer Order Application

Para 6 (1) Vesting Resolution

Serve Notice Prohibiting Payment

Serve Certified copy of Vesting

Para 6 (4) Application for Withdrawal of Notice Prohibiting Payment

Para 9 (1)) Documents: Voluntary Production

Para 9 (4) Documents Production Order (Certain/ Al) Applic

Para 9 (7) Law Society serves Documents List.

No Documents Recovery Application

Para 9 (8) Documents Recovery Application within 8 days. If lost

Destruction Order Application Para. 9(10)

Para 10(1) Mail Redirection Order

Solicitor's Defence to Documents Production and Mail Redelivery Order Application

VERSION 3 –THE 1974 ACT INTERVENTION PROCEDURE THE LAW SOCIETY PRETENDS HAS BEEN ENACTED

DECISION BY LAW SOCIETY

DECISION BY COURT OR TRIBUNAL

DISHONESTY BASED

Complaint

8 Day Notice (Explanation of Delay) Para 3 (b)

Solicitor fails to explain. Para 3 (c)

Notice (Failure) Para. 3 (d)

GROUND 8 No Explanation For Delay Para 3

Complaint by client or other person

GROUND 1 Reason to suspect dishonesty by the Solicitor has been guilty of dishonesty in connection with practice Para 1 (1) (a)

GROUND 2 Delay by PR . Para 1 (1) (b)

GROUND 3 Breach of Account Rules Para 1 (1) (c)

GROUND 7 Struck off or suspended Para 1 (1) (g)

GROUND 6 Mental Health Act patient Para 1 (1) (f)

GROUND 5 Prison Para 1 (1) (e)

GROUND 4 Bankruptcy Para 1 (1) d)

1974 Act Vesting Resolution Para 6 (1)

Statutory Freezing Order Procedure redundant because Money is 'frozen' and transferred by Vesting Resolution

Para 6 (6) Offence. A. 2-s, 4 Fraud Act 2006, Theft Act 1968 Offences. Perverting of the Course of Justice, Abuse of Process, Misconduct in Public

Solicitor threatened with criminal proceedings if he does not hand over Documents

s. 2-s, 4 Fraud Act 2006, Theft Act 1968 Offences. Perverting of the Course of Justice, Abuse of Process, Misconduct in Public Office

Solicitor signs Mail Redirection Form under duress.

s. 84 Postal Services Act 2000, s. 2-s, 4 Fraud Act 2006, Theft Act 1968 Offences. Perverting of the Course of Justice, Abuse of Process, Misconduct in Public Office

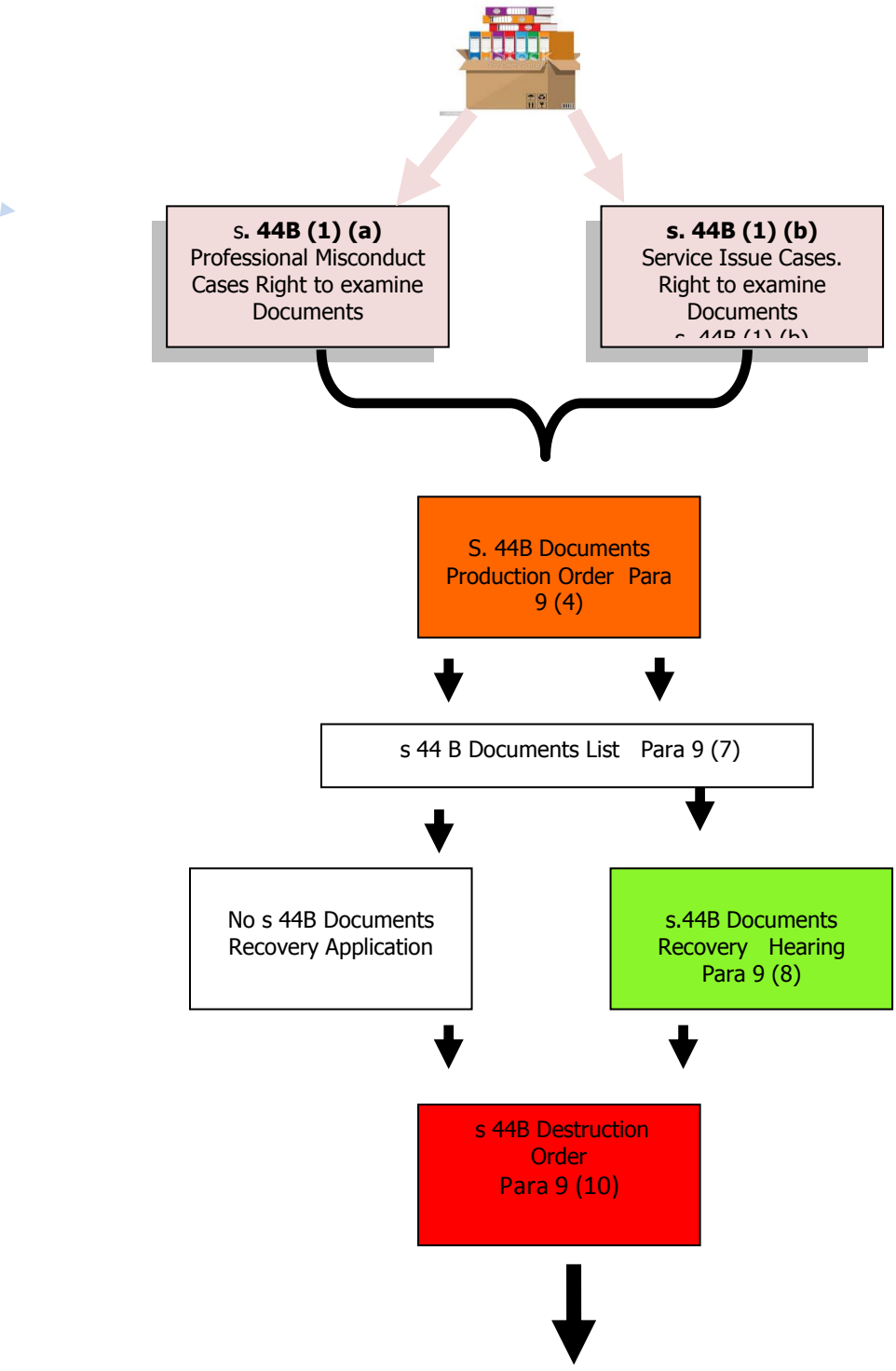
Service of Notice Prohibiting Payment

Statement that Vesting Resolution has been certified

Law Society may or may not serve Documents List. Para. 9 (7)

Application for Withdrawal of Vesting Resolution (not Notice Prohibiting Payment) and Application for Recovery of Documents within 14 days purportedly pursuant to Para 6 (4) and Para 9 (8)
s. 2-s, 4 Fraud Act 2006, Theft Act 1968 Offences. Perverting of the Course of Justice, Abuse of Process, Misconduct in Public Office

THE 1974 ACT INTERVENTION PROVISIONS AS AT 2005 : THE PROCEDURE AS AMENDED BY S. 44B



1965 ACT NON VESTING RESOLUTION PROCEDURE

Para 7

Statutory Freezing Order Application

Para 7

Statutory Freezing Order Application

No Documents Recovery Application Para 9. Applies

Documents Production Order Application Para 1

Para 7

Statutory Freezing Order Application

Mail Redelivery Order for maximum of 18 months. Para 8

Para 7

Statutory Freezing Order Application

Law Society serves Documents List, Para 3

Para 10
Non Vesting Resolution and Notice Prohibiting Payment Out

Para 10

Service of Certified Copy of Resolution and Notice

Para 11

Para 11

Para 11

Para 11

Para 11

Para 11

Para 11

Application of Withdrawal of Non Vesting Resolution by Solicitor /Other Third Parties

Para 11

The 15 + Parties named above

Para 11

Para 11

Para 11

Para 11

Para 11

Para 11

Para 11

Application of Withdrawal of Non Vesting Resolution by Solicitor /Other Third Parties

Para 13 (1) (a)

Law Society obtains consent from Beneficial Owner to transfer Money

Payment out Provisions

Para 13 (1)

Law Society gives 8 days notice of intention to transfer

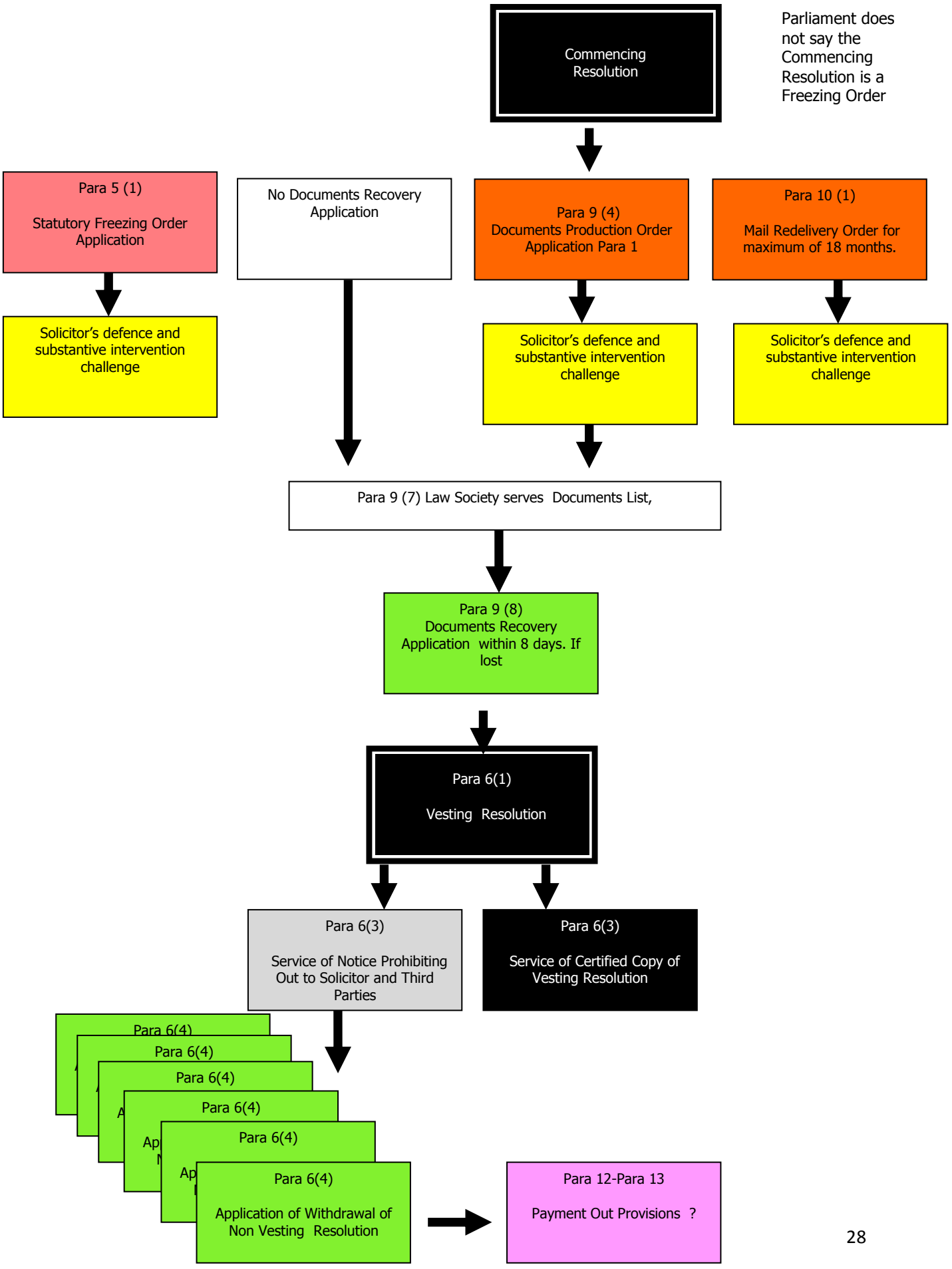
Para 13 (2)

Law Society can apply to court for transfer of money where beneficiary not known

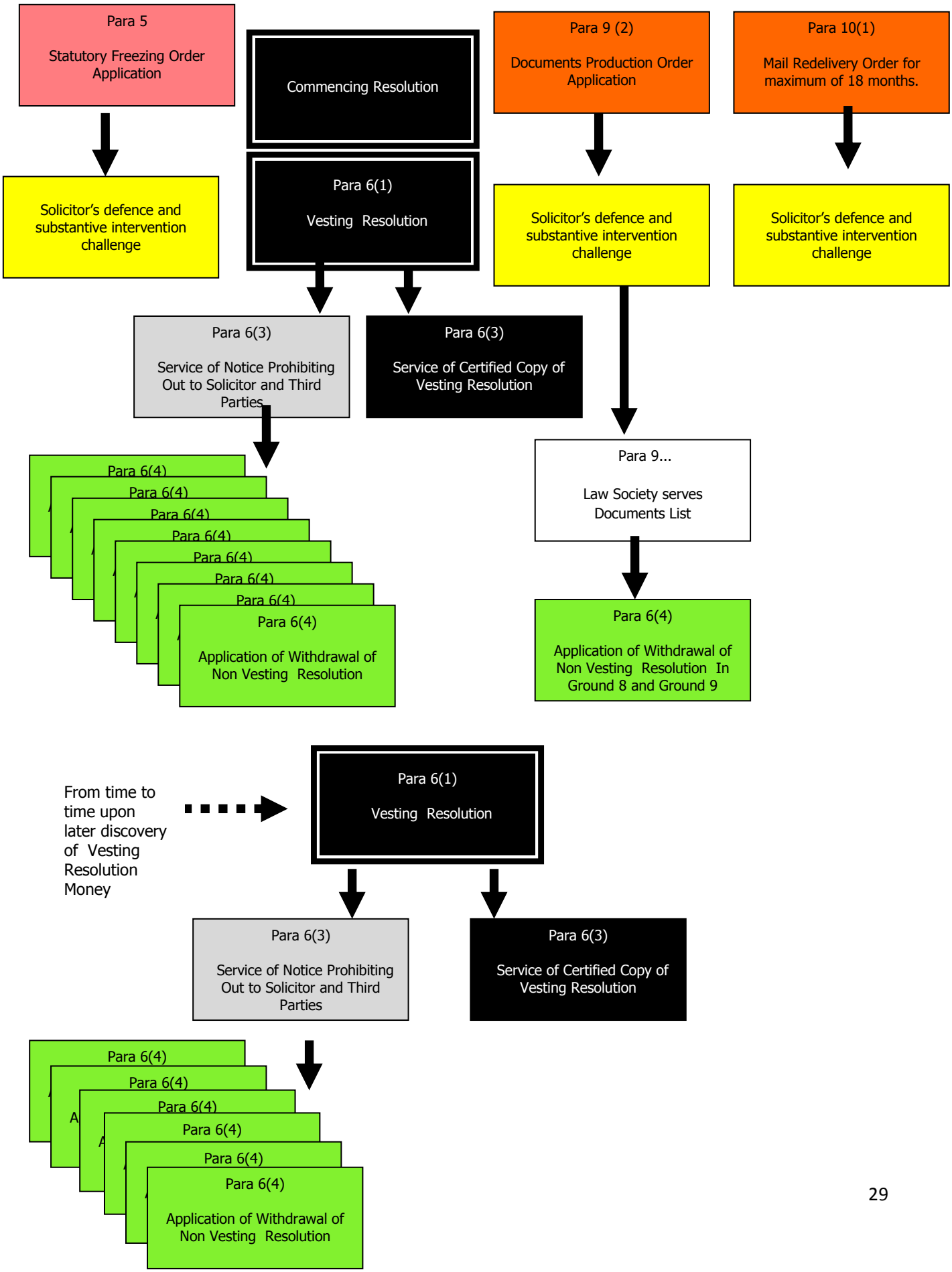
Para 12

Law Society can withdraw Solicitor's Banked Money

There is no statutory provision but presumably the Solicitor or Other Person could obtain injunctive relief in the courts


Commencing Resolution
Parliament does not say the Commencing Resolution is a Freezing Order
Para 5 (1)
Statutory Freezing Order Application
No Documents Recovery Application
Para 9 (4)
Documents Production Order Application Para 1
Para 10 (1)
Mail Redelivery Order for maximum of 18 months.
Solicitor's defence and substantive intervention challenge
Solicitor's defence and substantive intervention challenge
Solicitor's defence and substantive intervention challenge
Para 9 (7) Law Society serves Documents List,
Para 9 (8)
Documents Recovery Application within 8 days. If lost
Para 6(1)
Vesting Resolution
Para 6(3)
Service of Notice Prohibiting Out to Solicitor and Third Parties
Para 6(3)
Service of Certified Copy of Vesting Resolution
Para 6(4)
Para 6(4)
Para 6(4)
Para 6(4)
Para 6(4)
Para 6(4)
Application of Withdrawal of Non Vesting Resolution
Para 12-Para 13
Payment Out Provisions ?

1974 ACT VESTING RESOLUTION PROCEDURE VERSION 2



1974 ACT VESTING RESOLUTION PROCEDURE VERSION 3

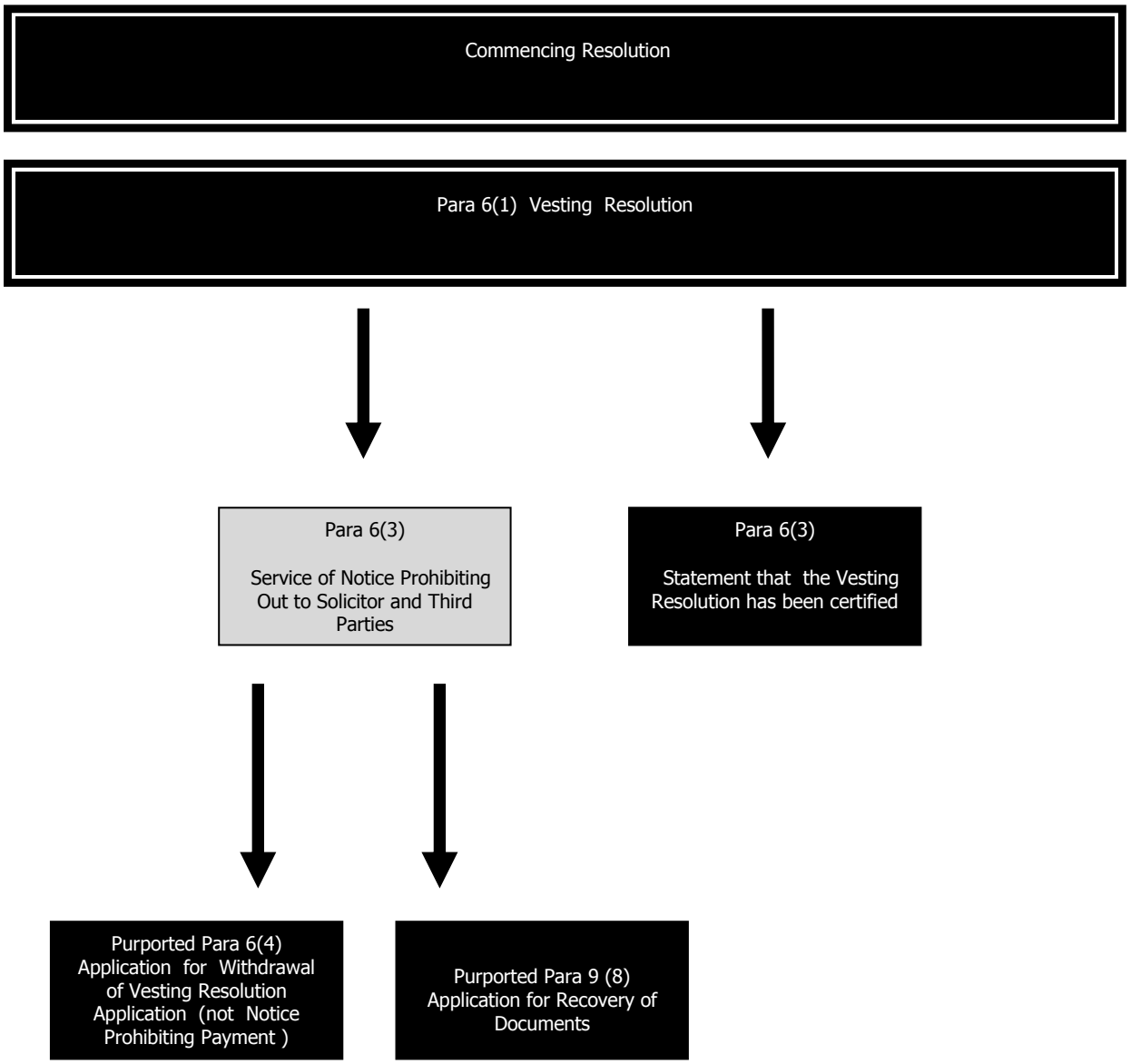


DIAGRAM SHOWING HOW VERSION 1 EVOLVED FROM 1965 ACT SCHEDULE 1

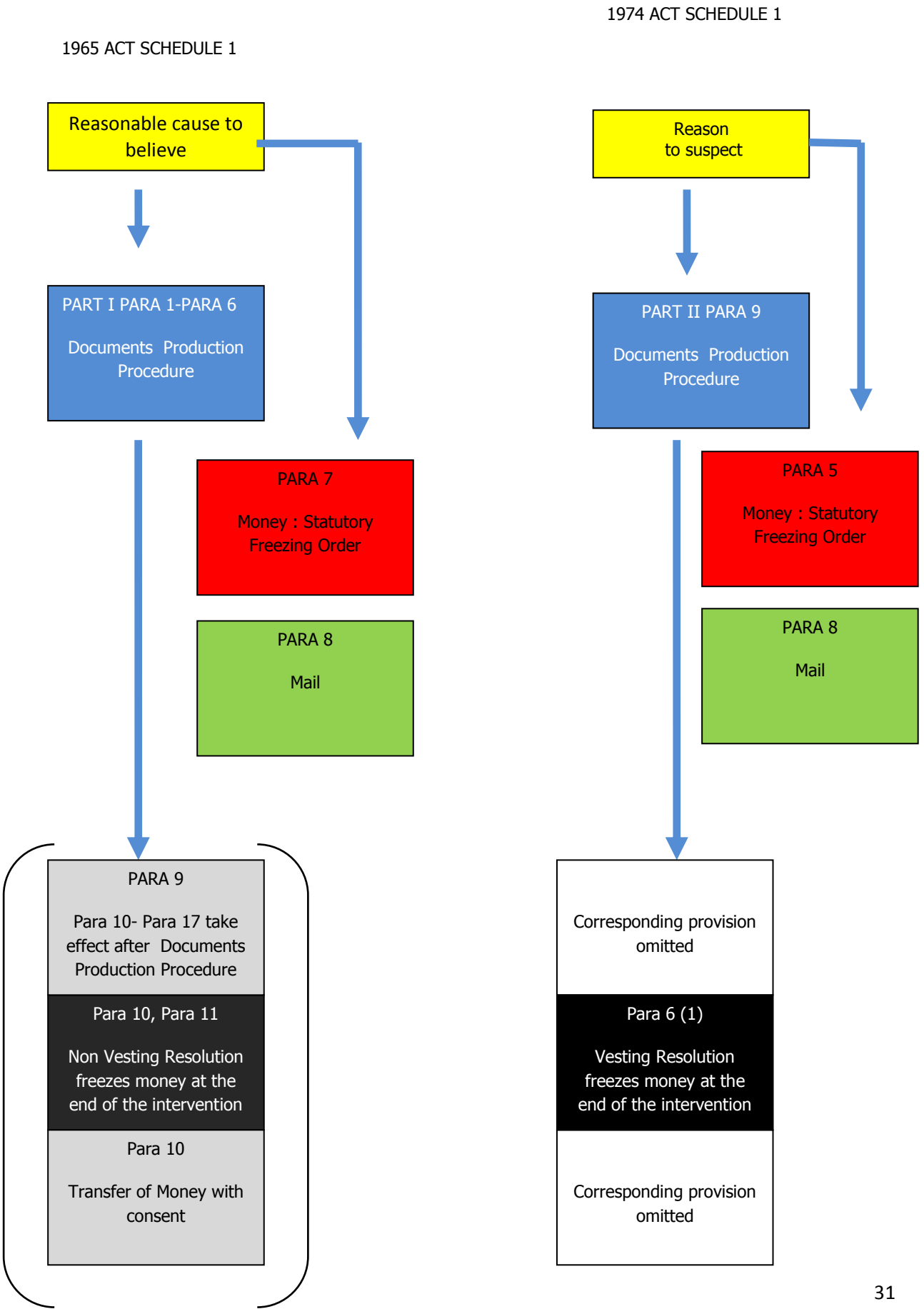


DIAGRAM : HOW VERSION 2 EVOLVED FROM 1965 ACT SCHEDULE 1

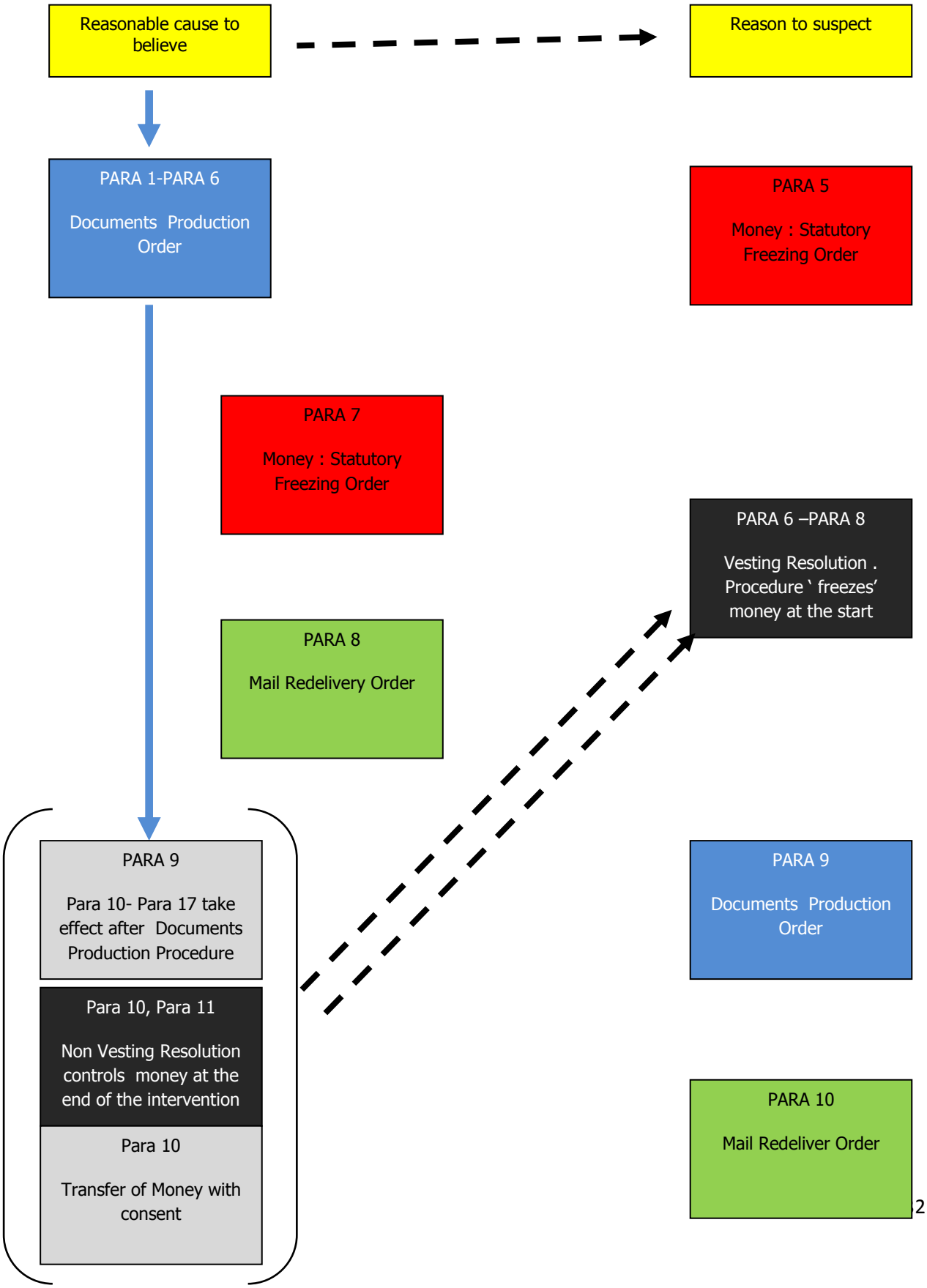


DIAGRAM SHOWING HOW VERSION 3 EVOLVED FROM 1965 ACT SCHEDULE 1

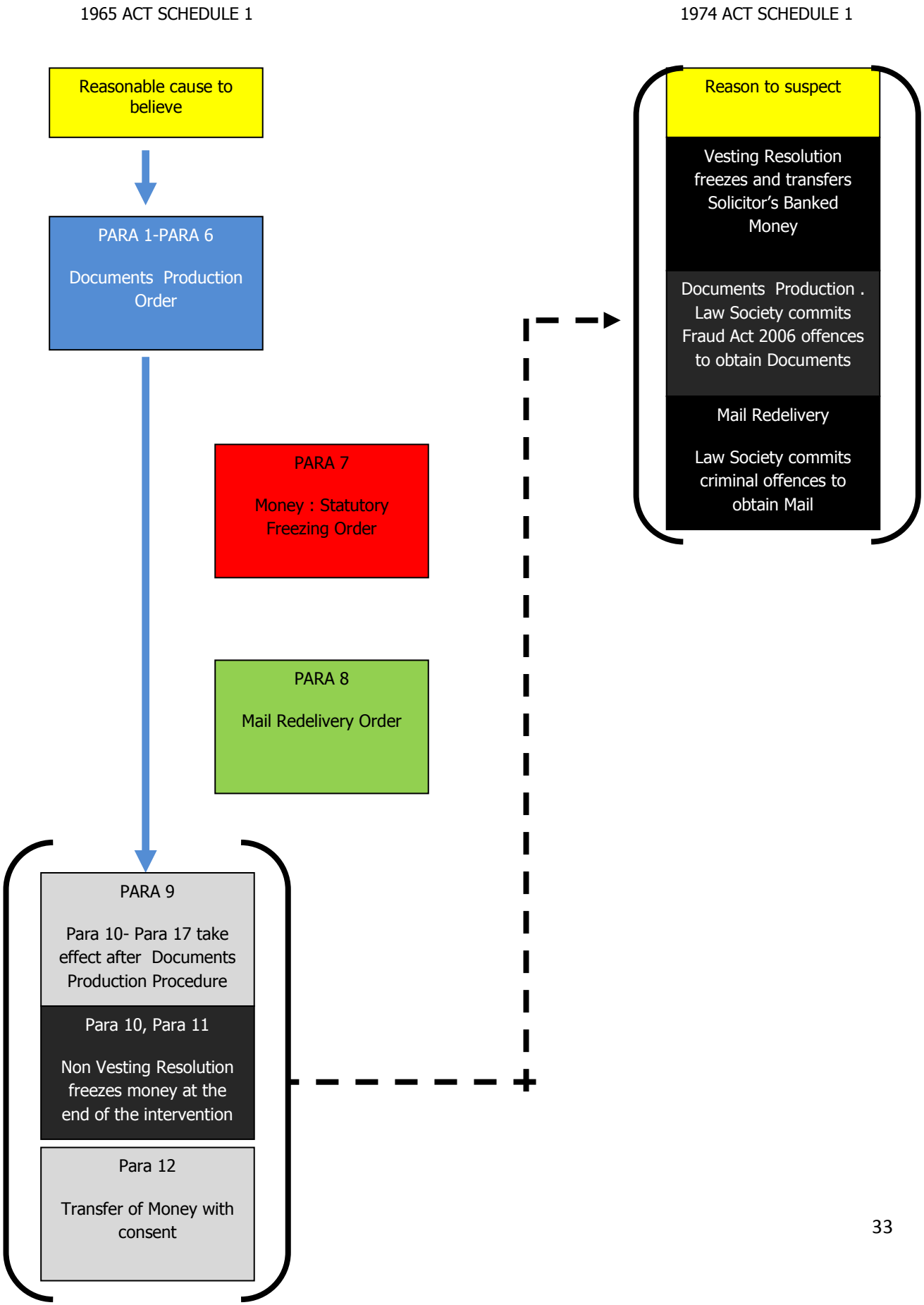
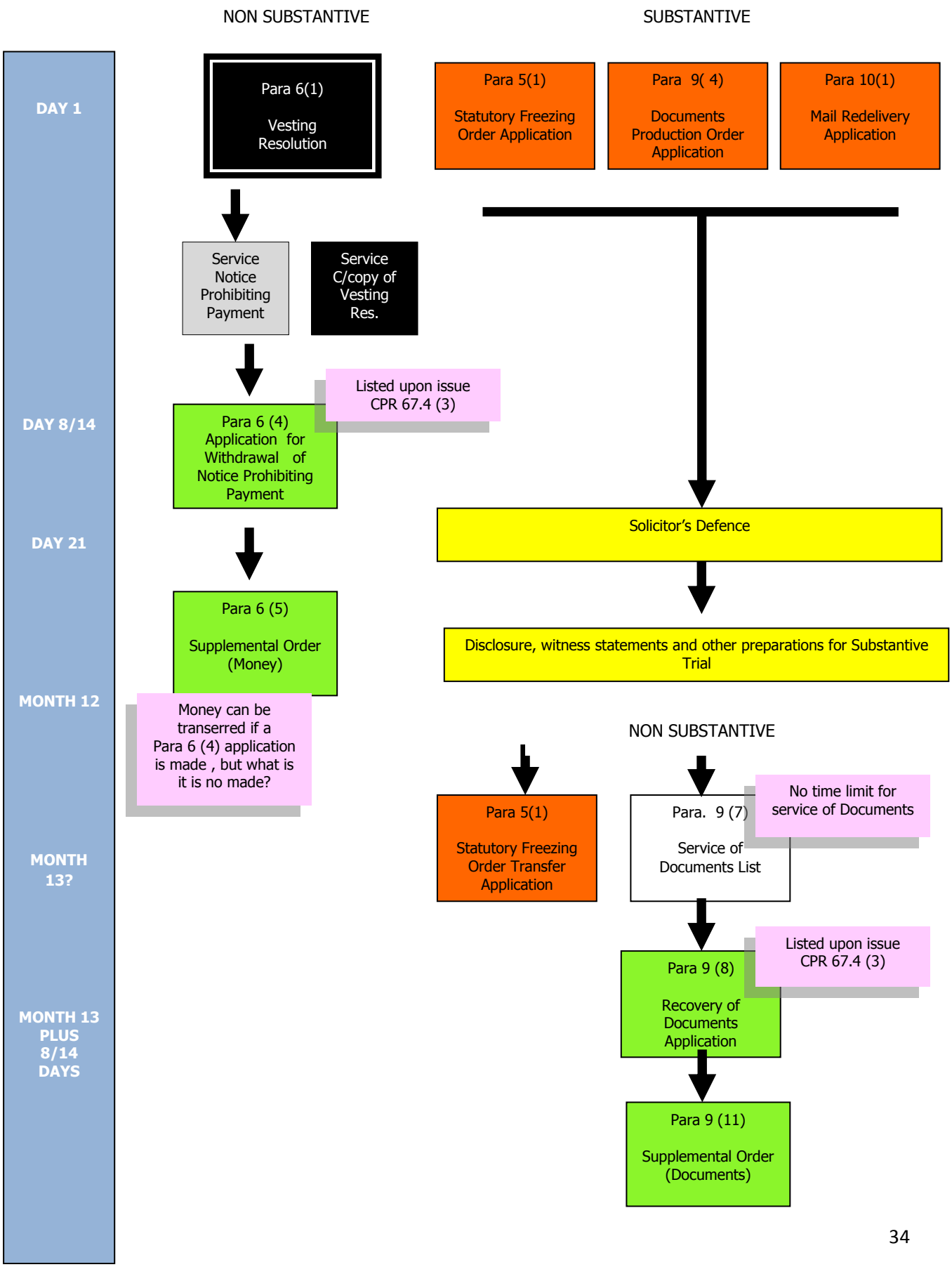


DIAGRAM SHOWING ABSENCE OF SIMULTANEITY BETWEEN SUBSTANTIVE AND NON SUBSTANTIVE PROCEDURES



THE APPLICATION OF THE VESTING RESOLUTION PROCEDURE

The Statutory Freezing Order Procedure , for the substantive determination of the Intervention

The Non Vesting / Vesting Resolution Procedure used for the summary determination of the interests of (1) Third Parties in Vesting Resolution Money (2) Third Parties and the Solicitor's Interest in Mixed Money (3) The Solicitor's interest in Later Discovered Money . The procedure takes place after the Intervention has been dealt with substantively

1965 ACT SCH 1

Applies in Ground 1 (Dishonesty) Ground 2 (Solicitor Struck Off/Suspended) (Ground 3 determined in Documents Production Applcation or Mail Redeilvery Application)	Where Third Parties have an interest in All Non Vesting Resolution Money e.g the Official Receiver, Trustee in Bankruptcy and PRS. Applies in Ground 4 (Bankruptcy MHA Case) Ground 5, Delay by PR Ground 6, Dishonest PR Ground 7 (Deceased Solicitor (**Money Subject to Third Party Interests**	Vesting Resolution Money held with Non Vesting Resolution Money. Applies in Ground 3 (No Explanation for Delay) and in all other Grounds in which the Money cannot be frozen, eg. money held to order by another solicitor or deposited in court as a Payment in (**'Mixed Money'**)	Grounds in which Vesting Resolution Money is discovered from time to time and after the Substantive Hearings. Mixed Money and Third Party Money. Applies to all Grounds (**Later Discovered Money)**

1974 ACT SCH 1 VERSIONS 1 AND 2

All Intervention Grounds except Ground 8 including the Solicitor's / PR's liability in Ground 4 (Bankruptcy) and Ground 6, Mental Health Act) (Ground 8 determined in Documents Production Applcation or Mail Redeilvery Application)	Where Third Parties have an interest in All Vesting Resolution Money e.g the Official Receiver, Trustee in Bankruptcy Applies in Ground 4 (Bankruptcy) Ground 6, Mental Health Act) (**Money Subject to Third Party Interests**")	Grounds in which Vesting Resolution Money is held Non Vesting Resolution Money (Mixed Money) and cannot be frozen , Applies in Ground 8 (No Explanation for Delay) and in all Grounds in which the Money cannot be frozen, eg. money held to order by another solicitor or deposited in court as a Payment in (**'Mixed Money'**)	Grounds in which Vesting Resolution Money is discovered from time to time and after the Substantive Hearings. Mixed Money and Third Party Money. Applies to all Grounds (**Later Discovered Money)**

1974 ACT SCH 1 VERSION 3

There is no substantive procedure under Version 3

Vesting Resolution Procedure used to determine for all substantive and procedural interests of all parties summarily

All Intervention Grounds determined summarily including issues concerning **Money Subject to Third Party Interests**	It is not known what steps are taken in relation to **Later Discovered Money** It is not known what steps are taken in relation to **Mixed Money'**

DIAGRAM SHOWING HOW RIGHT TO TRANSFER WITHOUT CONSENT WAS MADE BY CONFLATING TAKING CONTROL, VESTING AND TRANSFERRING MADE BY CONFLATING S 14 AND SCHEDULE 1 PARA 10 CONTROL

RIGHT TO OPERATE **AND** **VEST IN PRIORITY TO PERSONAL REPRESENTIVES** **AND** **TRANSFER WTIHOUT CONSENT**

(s 14. On death of solicitor practising on his own account Society to deal with banking accounts of practice.

On the death of a solicitor who immediately before his death was practising as a solicitor in his own name or as a sole solicitor in a firm name the right to operate on or otherwise deal with any banking account in the name of the solicitor or his firm, being an account in the title of which the word "client" appears, shall, notwithstanding anything in the principal Act or otherwise to the contrary, vest in the Society to the exclusion of any personal representatives of such solicitor and shall be exercisable as from the death of the solicitor)

+

TAKE CONTROL **AND** **TRANSFER WITH CONSENT**

Para 10.

The Society may, on a resolution in that behalf made by the Council, take control of all sums of money due from the solicitor or his firm to, or held by him or his firm on behalf of, his or his firm's clients or subject to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants.....

=

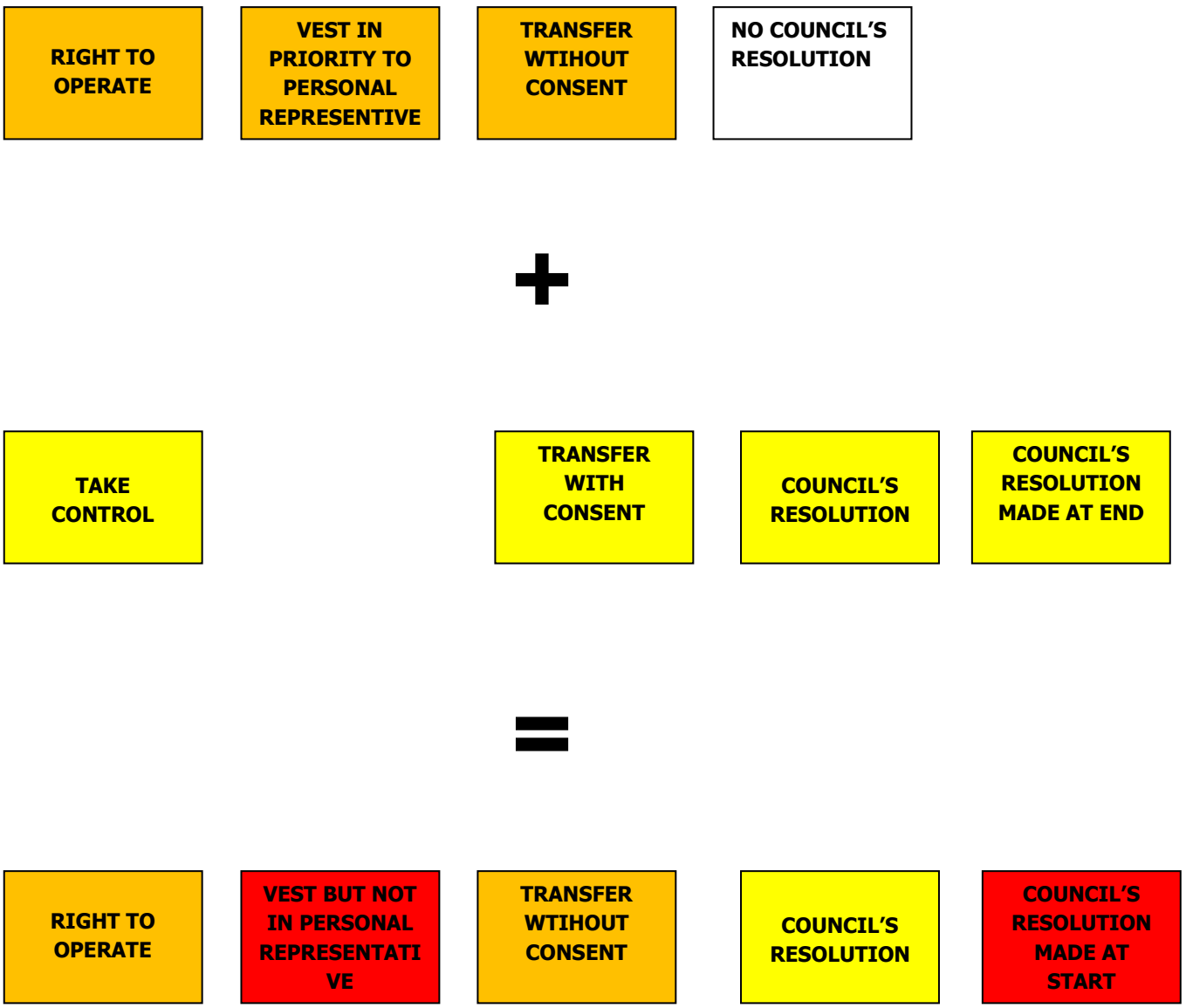
RIGHT TO OPERATE **AND** **TRANSFER WTIHOUT CONSENT** **AND** **TAKE CONTROL**

AND **VEST (BUT NOT IN DECEASED CASES)**

6 (1) Without prejudice to paragraph 5, if the Council pass a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part of this Schedule and subject thereto upon trust for the persons beneficially entitled to them.

(2) This paragraph ...

DIAGRAM SHOWING HOW THE CONFLATING S 14 AND SCHEDULE 1 PARA 10 MADE THE VESTING RESOLUTION WAS MADE THE START OF THE INTERVENTION AND MADE IT THE ENTIRE INTERVENTION



COMPARISON BETWEEN INTERVENTION PROCEDURES AND CRIMINAL PROCEDURES

THE CRIMINAL STATUTE DEFINES THE OFFENCE AND SPECIFIES ELEMENTS REQUIRED TO PROVE THE OFFENCE

↓

CIRCUMSTANCES HAVE ARISEN EG. A MAN HAS BEEN CAUGHT WITH A GUN,

↓

DECISION TO PROSECUTE TAKEN BY A LAW ENFORCMENT AGENCY

↓

INDICTMENT OR CHARGE SETS OUT THE ALLEGATIONS AGIANST THE ACCUSED

↓

WITNESS AND FORENSIC EVIDENCE ENLARGES UPON THE ALLEGATIONS

↓

ACCUSED DEFENDS THE CHARGES

↓

COURT DECIDES WHETHER THE ACCUSED IS GUILTY OF THE CHARGES OR NOT

THE CIRCUMSTANCES ARE SET OUT IN THE STATUTE

↓

DECISION TO PROSECUTE TAKEN BY THE LAW SOCIETY

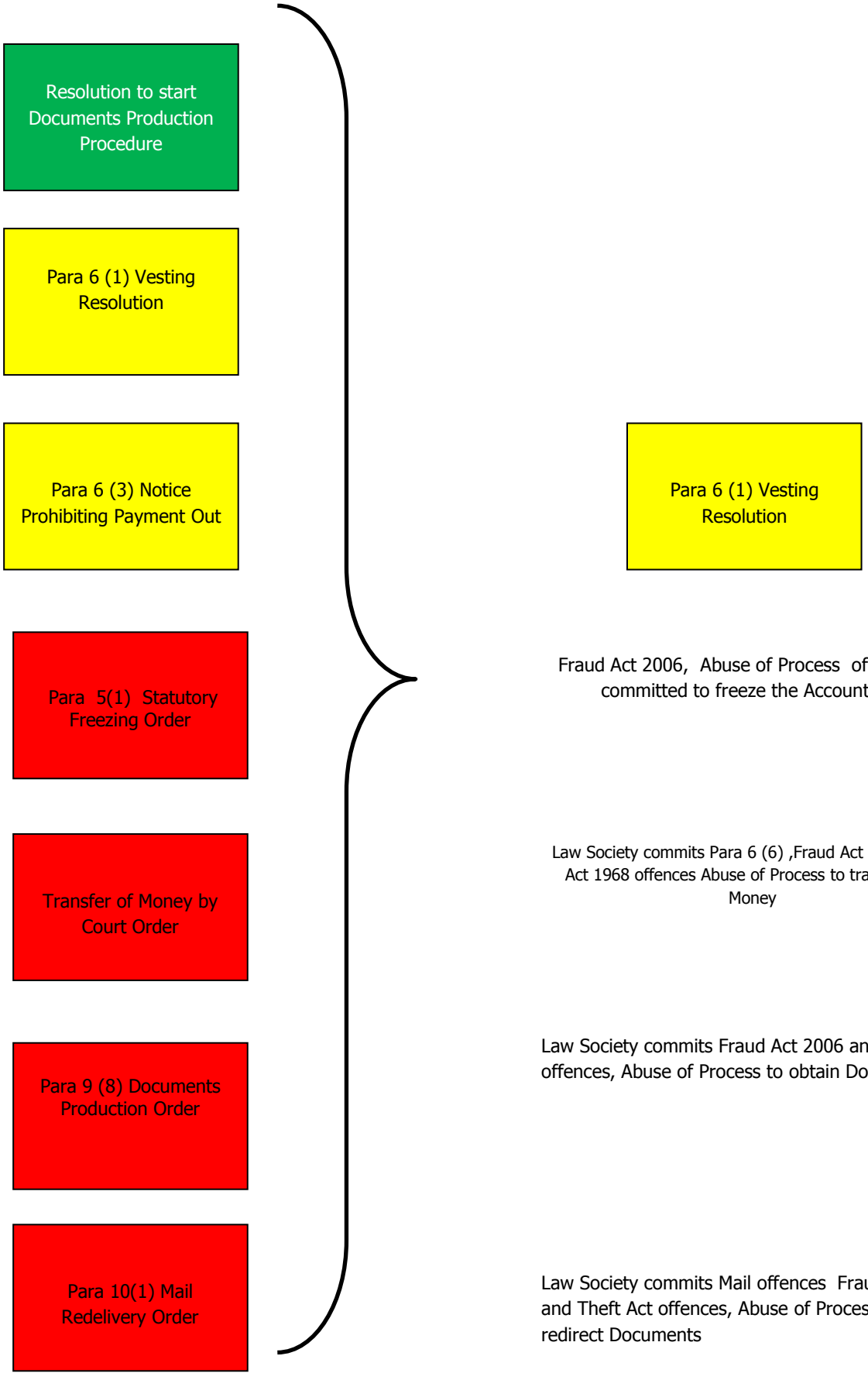
↓

There is no formal charge. Counsel for both sides were permitted to speculate about what was in the Panel's mind . In other words, they are permitted to create the charge as the trial is proceeding

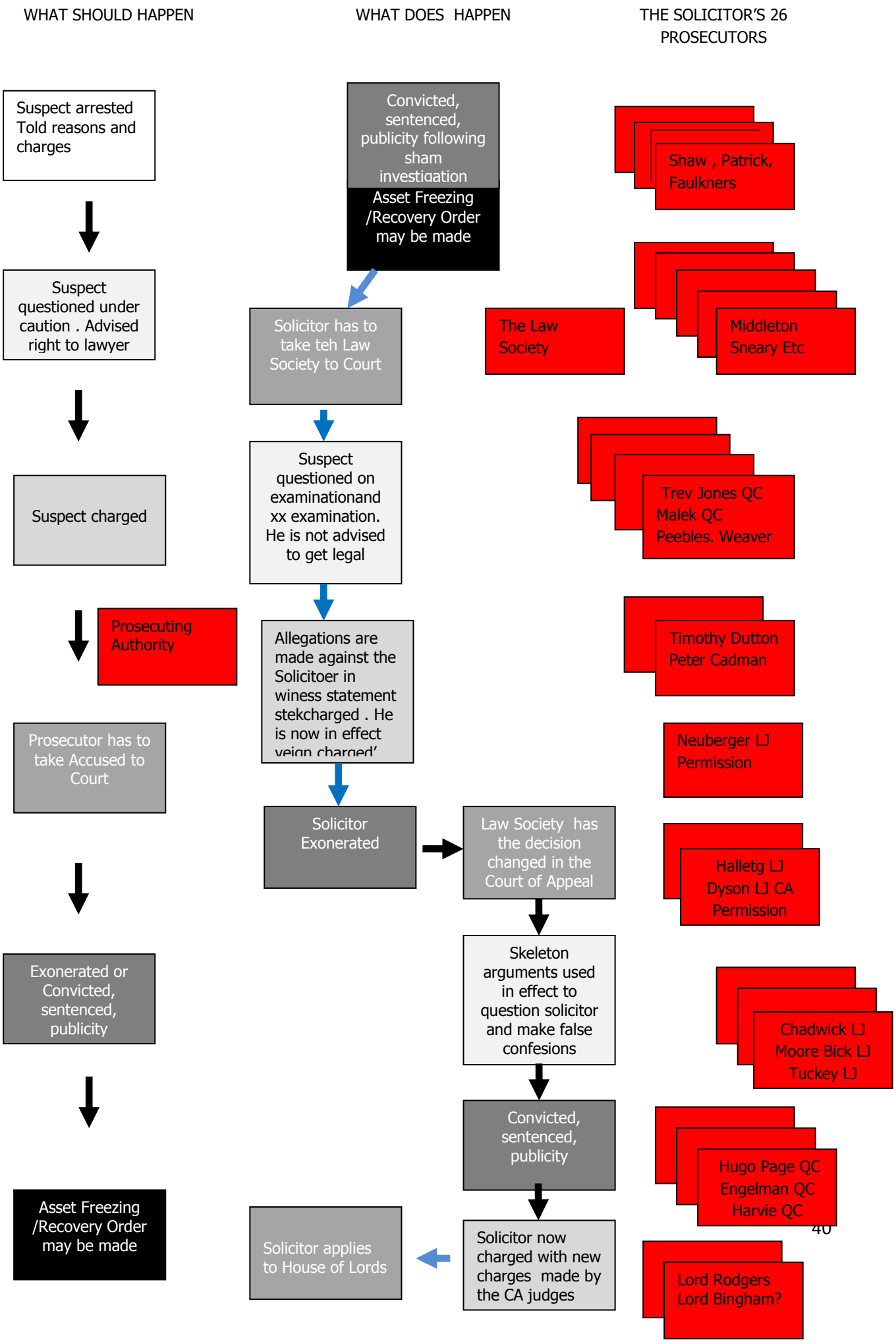
COURT DOES NOT DECIDE WHETHER THE SOLICTOR IS GUILTY OR NOT, BUT WHETHER THE PANEL HAD REASON TO SUSPECT HE WAS

INSTRUMENTS USED UNDER THE LAWFUL INTERVENTION PROCEDURE

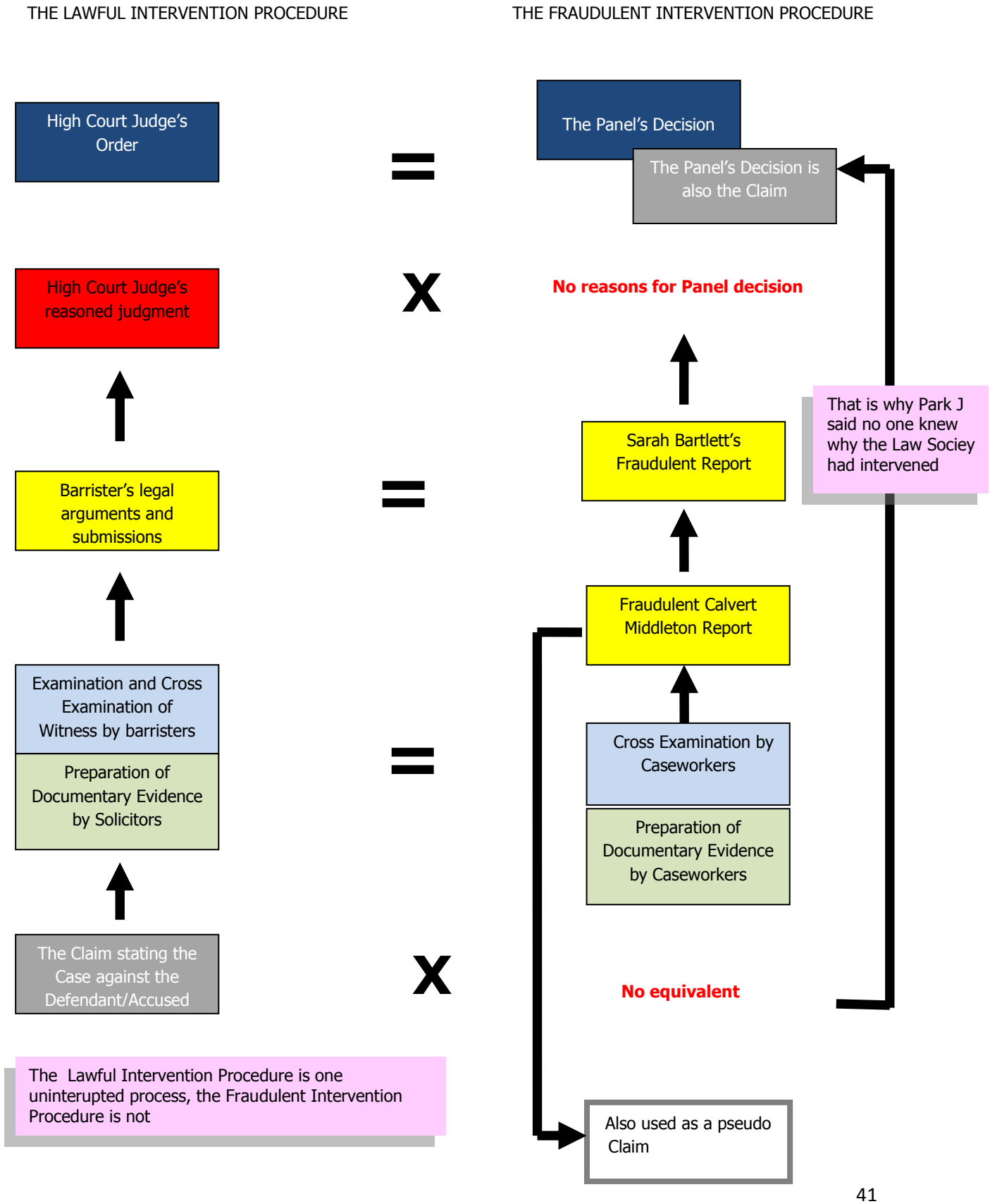
INSTRUMENT USED UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE



22) SOLICITOR PUNISHED AND SENTENCED, INTERROGATED AT TRIAL AND THEN CHARGED BY THE APPEAL COURT JUDGE



23) HOW THE FRAUDULENT INTERVENTION PROCEDURE IMITATES SUBSTANTIVE COURT PROCEDURES



24) GRAPHIC SHOWING WHERE SOLICITORS ARE INVOLVED IN THE INTERVENTION FRAUD WITH REFERENCE TO THE FUNCTION THEY DISCHARGE

THE FUNCTION	THOSE DISCHARGING THE FUNCTION
To look for a letter sending a bill to the client and to check that the letter was not sent after the client to office transfer	Mr Johnson Forensic Accountant Kirsten Patrick. Could not get training contract Susan Faulker, junior or trainee caseworker David Shaw, Claimed Senior Forensic Acct
To prepare Calvert 's Fraudulent Report to Middleton	Mike Calvert, Head of Forensic
To view Calvert 's Fraudulent Report to Middleton	David Middleton, Head of Investigation
To prepare Bartlett's Fraudulent Summary of Calvert 's Fraudulent Report to Middleton	Sarah Bartlett, Senior Caseworker
To view Bartlett's Fraudulent Summary of Calvert 's Fraudulent Report to Middleton	Charles Sneary Intervention Panel
To challenge the Intervention for the Solicitor or to respond to the Solicitor's challenge in the High Court, Court of Appeal, Supreme Court or European Court of Human Rights	Solicitors Intervention Legal Team Law Soceity's Intervention Team
To prosecute or to defend the Solicitor at the Solicitors Disciplinary Tribunal	Legal Team for and against Solicitor Tribunal Members

DIAGRAM SHOWING THE MONEY GENERATED BY THE INTERVENTION FRAUD

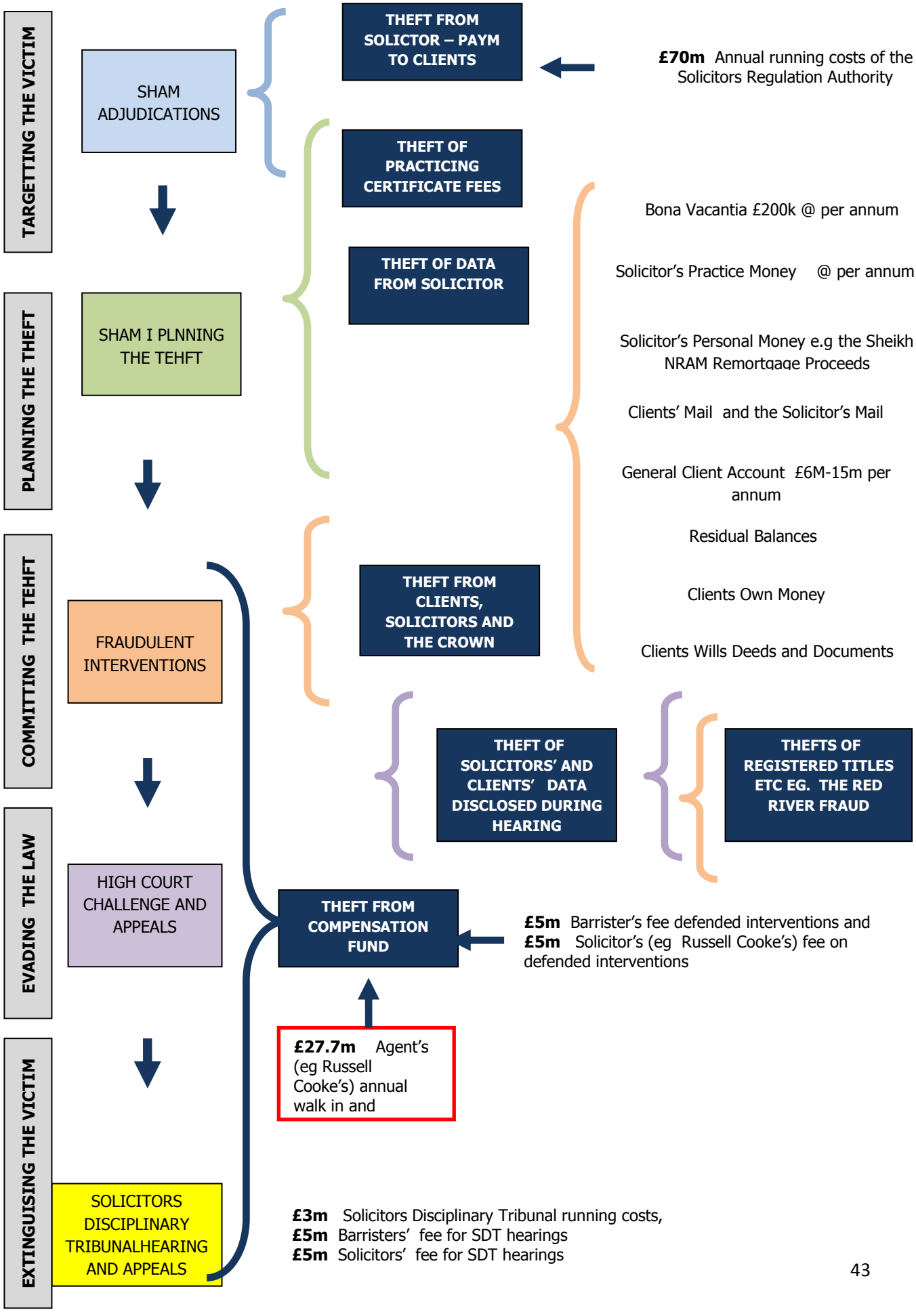
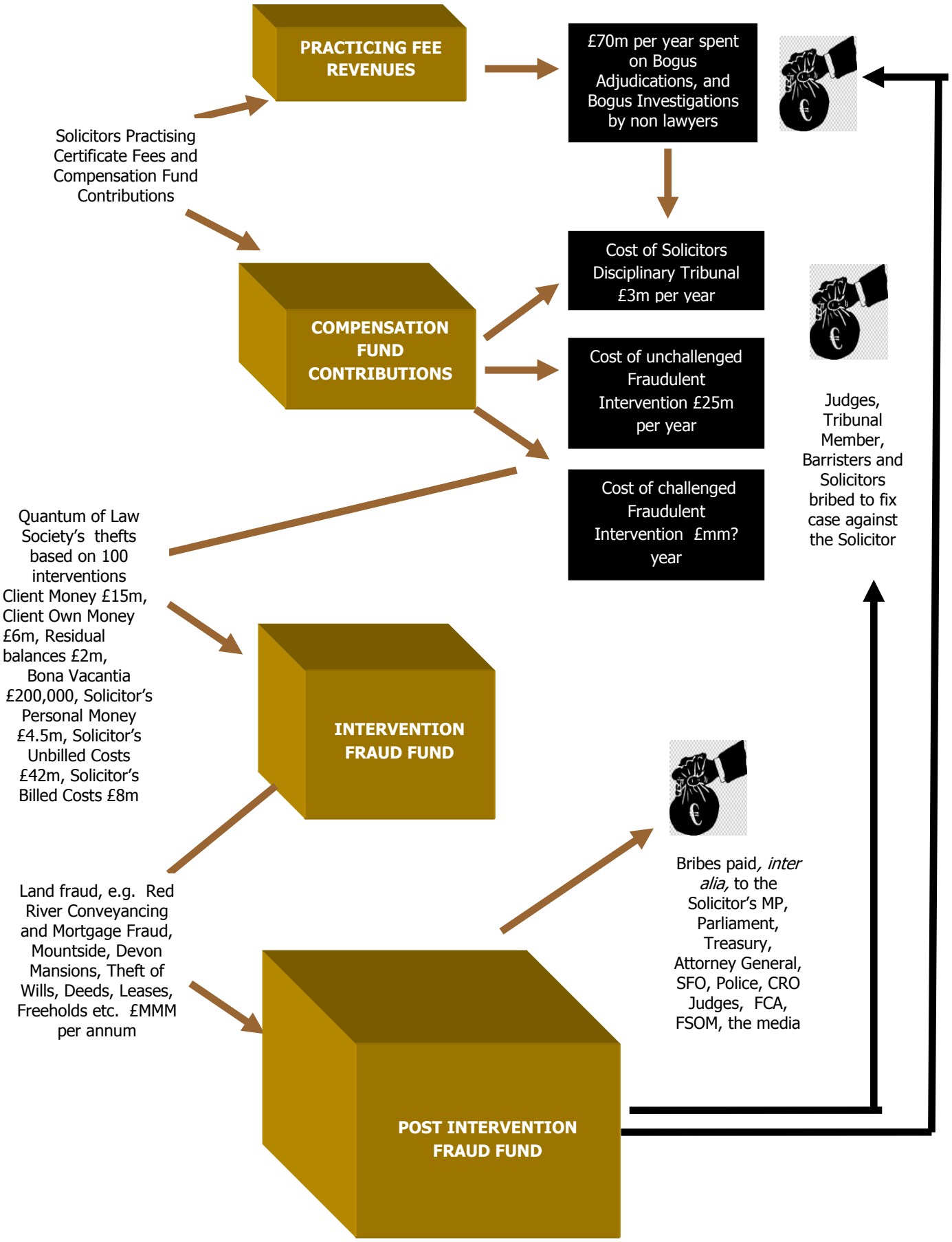


DIAGRAM SHOWING THE GENERATING OF MONEY IN THE INTERVENTION FRAUD



THE MANIPULATION OF LANGUAGE TO FALSELY ALLEGE AN HONEST SOLICITOR IS DISHONEST

Where the Solicitor has not been involved in fraudulent activity, such as mortgage fraud, or theft from Clients , the Law Society uses four standard allegations which can be manipulated to imply that the Solicitor is a thief. They are probably the only four. They are Round Sum Transfers, Cash Shortage, Dishonest Overcharge, Taking Client Money.

THE PROPER DEFINITION AND MEANING OF THE TERM	THE MANIPULATED DEFINITION AND MEANING OF THE TERM
ROUND SUM TRANSFERS The proper meaning is transferring costs before delivery the bill to the client.	A Round Sum Transfer is a costs transfer which ends with a zero
CASH SHORTAGE The term has no special meaning . For an ordinary person it means balancing his bank account as against his chequebook. For solicitors it is shortfall between the sum shown to be held on the Solicitor's internal Client Account ledger and the money shown to be held in the bank statement	It would be too controversial to intervene for overcharging so the allegateion used to allege Cash Shortage when there is no Cash Shortage A Cash Shortage is an unjustified charge, so if the bill is £35,000.00 of which £270.00 cannot be justified ,£35,000 (plus vat) is a Cash Shortage (Thirkettle)
DISHONEST OVERCHARGE The standard ways of showing are 1. Charging for unqualified staff at fee earner's rates 2. Fabricating time records 3. Deliberately applying the wrong basis of charge 4. Exaggerating time spent	
'TAKING' CLIENT MONEY Solicitor has to 'take' Client Money to discharge his functions. For example, he has to 'take Client Money to complete a purchase for his client, pay court fees, to pay any settlement his Client has agreed etc.	The Law Society alleged I took £254,000 from Client Account. It did not say I was the Client and it was my own remortgage money (The Law Society's theft of the Sheikh-NRAM Remortgage Monies

FLOWCHART SHOWING THE THREE STAGES OF MONEY LAUNDERING

OBTAINING THE DIRTY CASH OR PROCEEDS OF CRIME

Proceeds of crime is the term given to money or assets gained by criminals during the course of their criminal activity.

STAGE 1 PLACEMENT

This is when "dirty" cash or proceeds of crime is converted into assets that seem legitimate such as by depositing funds into a bank account registered to an anonymous cooperation or a professional middleman .

This stage serves two purposes: (a) it relieves the criminal of holding and guarding large amounts of bulky of cash; and (b) it places the money into the financial system.

This is the stage tat which the criminal is at most vulnerable to detection because they introduce massive wealth into the financial system seemingly out of nowhere .

STAGE 2 LAYERING

The primary purpose of this stage is to separate the illicit money from its source. This is done by the sophisticated *layering* of financial transactions that obscure the audit trail and sever the link with the original crime.

It involves using multiple transactions and multiple accounts to further distance funds from original source.

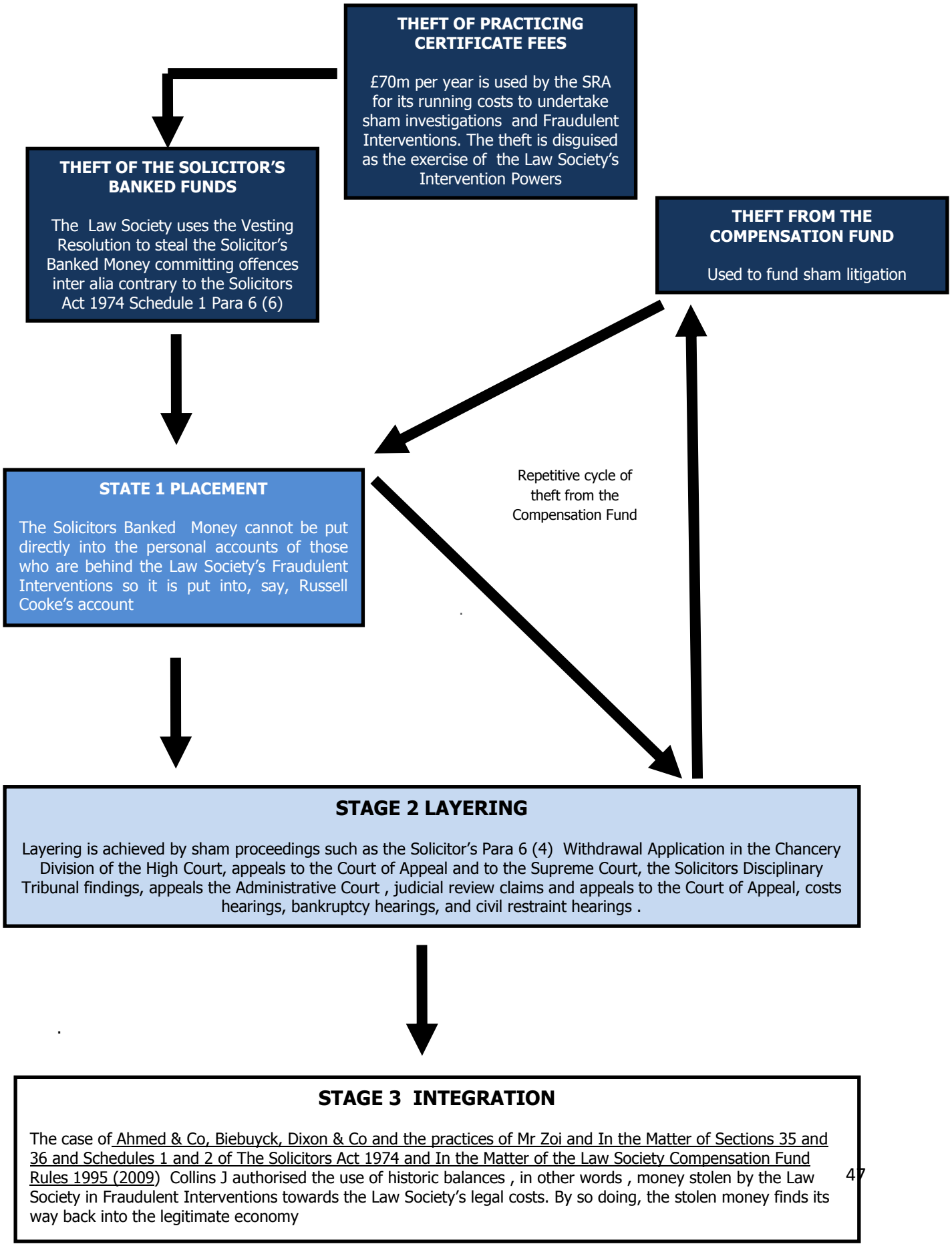
During this stage, for example, the money launderers may begin by moving funds electronically from one country to another, then divide them into investments placed in advanced financial options or overseas markets; constantly moving them to elude detection; each time, exploiting loopholes or discrepancies in legislation and taking advantage of delays in judicial or police cooperation layering.

.

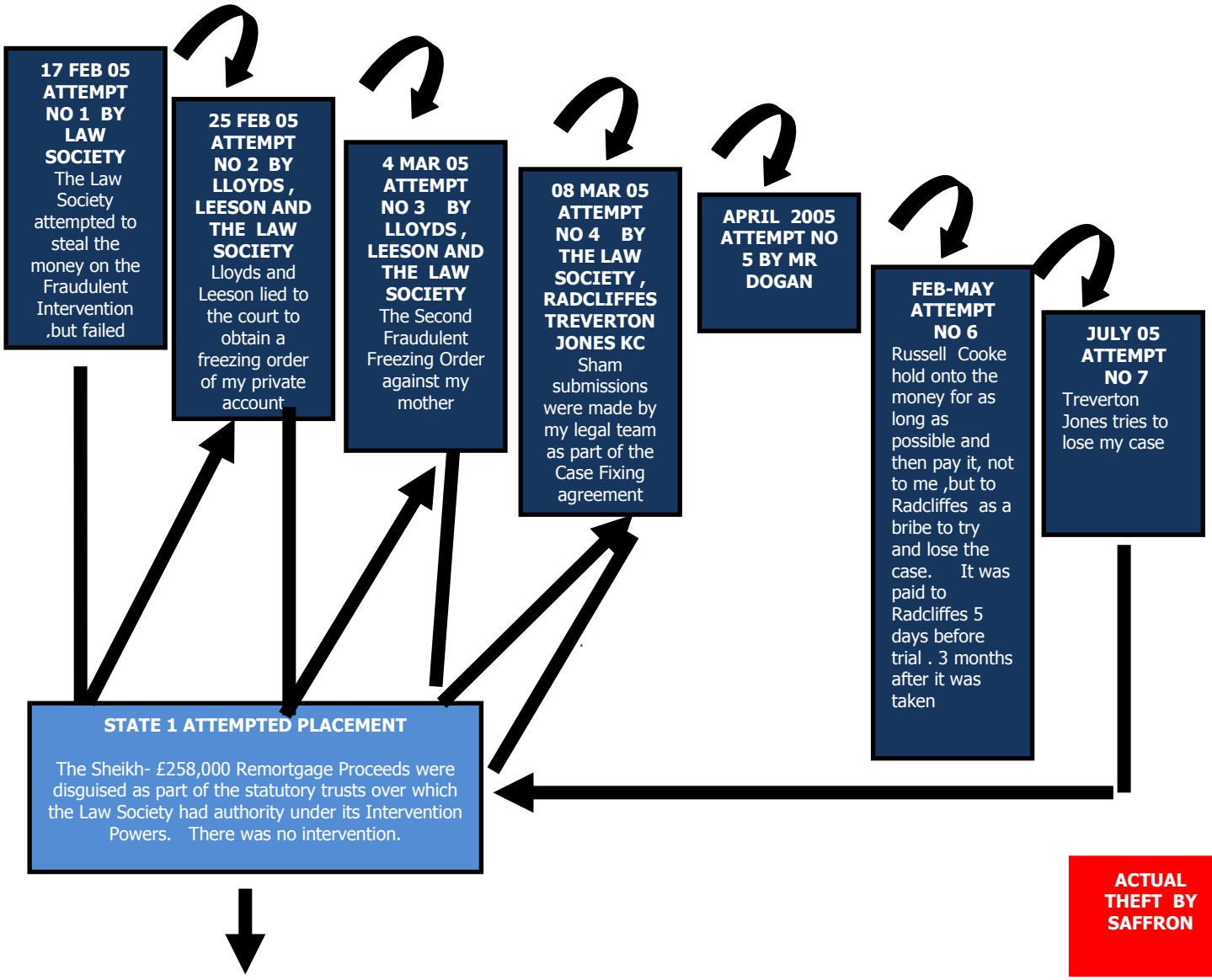
STAGE 3 INTEGRATION

This is the stage at which the money is then reunited with the criminal with what appears to be a legitimate source. At this stage, it is very difficult to distinguish between legal and illegal wealth. The launderer can use the money without getting caught. After the money is transferred from legal businesses or investments, or the trail has become too difficult to follow, the money can then be placed into major investments. Integrated cash ends up being spent on luxury assets, real estate holdings, and long-term investment vehicles or in new business ventures. Integrated cash can also purchase assets that can be used to facilitate future money laundering.

FLOWCHART SHOWING THE LAW SOCIETY'S FRAUDULENT INTERVENTIONS IN MONEY LAUNDERING TERMS



FLOWCHART SHOWING THE SEVEN ATTEMPTED THEFTS OF THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES IN MONEY LAUNDERING TERMS



ACTUAL THEFT BY SAFFRON

STAGE 2 LAYERING

Layering took place by means of

1) the sham hearings

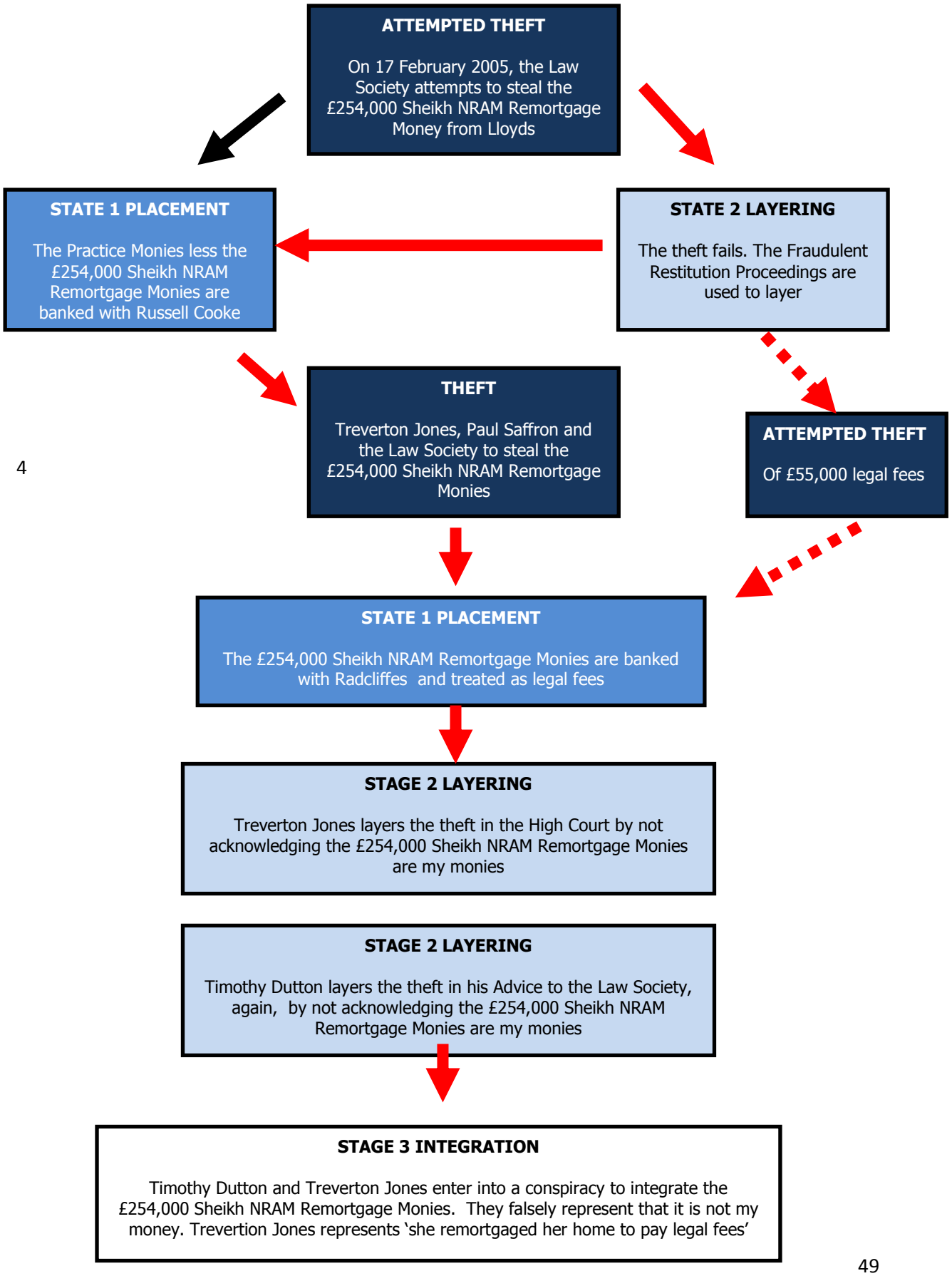
2) Treverton Jones Submissions in the High Court and in teh Court of Appeal, in particular his statement made in the Court of Appeal that I had remortgaged to pay his fees!

3) Dutton's submissions to the Court of Appeal

STAGE 1- PLACEMENT AND STAGE 3 INTEGRATION

The Remortgage Proceeds were placed straight into the sex industry where they were also integrated into the economy

FLOWCHART SHOWING THE THEFT OF THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES IN MONEY LAUNDERING TERMS



4

FLOWCHART SHOWING THE THEFT AND MONEY LAUNDERING OF ALL MY ASSETS

THEFT

The Law Society of England and Wales

LLOYDS BANK

BARCLAYS

Santander

£254,000 Sheikh NRAM Remortgage Monies

£254,000 Sheikh NRAM Remortgage Monies

FIRST PLACEMENT → SECOND PLACEMENT → ATTEMPTED THIRD PLACEMENT → FOURTH PLACEMENT

Stolen money deposited with Russell Cooke

Stolen money deposited with Radcliffes 7 days before trial

The Law Society and Russell Cooke use false invoices to place £55,000

The Law Society and Russell Cooke places £55,000 with Radcliffes 3 days before trial

LAYERING

Gregory Treverton Jones and Paul Saffron pretend there is an intervention Treverton Jones makes sham submissions to set up a successful 'appeal' for the Law Society

THEFT AND PLACEMENT

Park J had ordered that the Law Society pay £90,000 by way of costs which Saffron told the court were about £100,000.00. Treverton Jones agreed the costs should be secured against Devon Mansions and All Saints Mews, two of my properties

THEFT

Saffron steals £250,000

PLACEMENT

Saffron delivers invoices to me for £358,000 for legal costs

LAYERING | LAYERING | LAYERING

The thefts are layered by Dutton in Dutton's Fraudulent Advice

INTEGRATION | INTEGRATION | INTEGRATION

The thefts are integrated by Dutton, Treverton Jones, Hallett LJ, Dyson, Chadwick LJ, Moore Bick LJ and Tuckey LJ in the Court of Appeal

THEFT

Mountside £575,000

Devon Mansions and All Saints Mews £150,000

Stoke Newington Site £1.2m (noticed by the Law Society , Chadwick LJ and Hugo Page QC) during the case.

9) COMPOSITE TABLE OF THE QUANTUM OF THE LAW SOCIETY'S THEFTS, FRAUD AND CORRUPTION PER 100 INTERVENTIONS

	PER ANNUM PER 100 INTERVENTIONS	PER DECADE PER 100 INTERVENTIONS
PAYMENTS		
A. THEFT FROM PRACTICING CERTIFICATE FEE REVENUES		
Steps Preliminary to the Intervention Fraud: the Law Society's costs of sham adjudications, sham investigation and sham Panel Meetings. (Section)	£70m	£700m
B. THEFT FROM THE COMPENSATION FUND		
Walk in and Management Costs of Intervention. The Law Society's agents fees for the removal and management of the Solicitor's Documents and the Solicitor's Mail and for the management of the Statutory Trusts	£25m	£250m
Solicitors Disciplinary Tribunal Trial Per Part D 3 (3).	£3m	£30m
Legal Costs in High Profile Litigated Intervention (Sheikh)	£3m	
Legal Costs in High Profile Litigated Intervnetions (Mireskandari)	£3m	
Bribes	?	
RECEIPTS		
A. THEFT FROM CLIENTS		
General Client Account Money (Part E 1 (1))	£15m	£150m
Client Own Money. Quantum not known and not calculable (Part E 1 (2))	£6m	£60m
Residual Balances (Part E 1 (3))	£2m	£20m
Clients' Documents, Wills, Deeds and Data (Part E 1 (4))	?	?
Solicitor's Mail (Part E 1 (5))	?	?

B. THEFT FROM THE CROWN		
Bona Vacantia (Part E 2)	£200,000	£2m
C. THEFT FROM THE SOLICITOR		
The Solicitor's Practice Money (E 3 (1))	£5.6m	£56m
The Solicitor's Personal Money (E 3 (2))	£4.5m	£45m
The Solicitor's Unbilled Costs (E 3 (3))	£42m	£420m
The Solicitor's Costs, billed but not transferred	£8m	£80m
D. FUTURE THEFTS FROM CLIENTS AND OTHERS		
Thefts based on information from Wills, Trusts, Deeds and Documents stolen on Intervention. **Part 1B1 Page 187** estimated at £5.6m per year	£560m	£5.6bn

10) THE QUANTUM OF CLIENTS' MONEY ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Total Interventions	The Total Amount of Client Money assumed to be taken on Intervention	Client Money which may have been appropriated by the Law Society calculated at 25%
40 are Sole Practitioners	£10m (40 x £250,000)	£2.5m
40 are Medium Sized Firms of 1-3 Partners	£30m (40 x £750,000)	£7.5m
20 are 4 plus Partner firms	£20m (20 x £1m)-	£5m
Total Client Money on 100 Interventions	£60m	£15m

11) THE QUANTUM OF CLIENTS' OWN MONEY ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Total Interventions	The Total Amount of Client Money assumed to be taken on Intervention	Client Own Money which may have been appropriated by the Law Society calculated at 1% tot
40 are Sole Practitioners	£10m (40 x £250,000)	£1m
40 are Medium Sized Firms of 1-3 Partners	£30m (40 x £750,000)	£3m
20 are 4 plus Partner firms	£20m (20 x £1m)-	£2m
Total Client Money on 100 Interventions	£60m	£6m

12) THE QUANTUM OF RESIDUAL BALANCES ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Residual Balances Held	Total Residual Balances
40 are Sole Practitioners	£15,000	£600,000 (40 x £15,000)
40 are Medium Sized Firms of 1-3 Partners	£30,000	£1.4m (40 x £30,000)
20 are 4 plus Partner firms	£50,000	£1m (20 x £50,000)
		£2m

13) THE ESTIMATED VALUE OF LEGAL TITLES STOLEN FROM CLIENTS PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimate Average Sum Stolen From Clients	Number of Interventions (25%)	Total
40 are Sole Practitioners	£4m	10	£40m
40 are Medium Sized Firms of 1-3 Partners	£4m	10	£40m
20 are 4 plus Partner firms	£4m	5	£20m
		25	£80m

14) THE QUANTUM OF BONA VACANTIA ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Residual Balances Held	10% Total Residual Balances
40 are Sole Practitioners	£600,000	£60,000
40 are Medium Sized Firms of 1-3 Partners	£1.4m	£140,000
20 are 4 plus Partner firms	£1m	£100,000
		£200,000

15) THE QUANTUM OF SOLICITORS' PRACTICE MONEY ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Amount of Practice Money	10% Total Residual Balances
40 are Sole Practitioners	£30,000	£ 1,200,000
40 are Medium Sized Firms of 1-3 Partners	£60,000	£ 2,400,000
20 are 4 plus Partner firms	£100,000	£ 2,000,000
		£ 5,600,000

16) THE QUANTUM OF SOLICITORS' PERSONAL MONEY ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Amount of Personal Money	10% of firms	Total
40 are Sole Practitioners	£250,000	4	£1,000,000
40 are Medium Sized Firms of 1-3 Partners	£500,000	4	£2,000,000
20 are 4 plus Partner firms	£750,000	2	£1,500,000
			£4,500,000

17) THE QUANTUM OF SOLICITORS' UNBILLED COSTS ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Unbilled Costs	Total
40 are Sole Practitioners	£200,000	£8m (40 x £200,000)
40 are Medium Sized Firms of 1-3 Partners	£400,000	£16m (40 x £400,000)
20 are 4 plus Partner firms	£1m	£20m (20 x £1.5m)
		£42m

18) THE QUANTUM OF THE SOLICITOR'S COSTS BILLED, BUT NOT TRANSFERRED ESTIMATED TO BE STOLEN PER 100 INTERVENTIONS

Assumed Breakdown of Interventions	Estimated Unbilled Costs	Total
40 are Sole Practitioners	£ 50,000	£2,000,000
40 are Medium Sized Firms of 1-3 Partners	£ 75,000	£3,000,000
20 are 4 plus Partner firms	£ 150,000	£3,000,000
		£8,000,000

19) THE QUANTUM OF THE LAW SOCIETY'S FUTURE THEFTS

Assumed Breakdown of Interventions	Estimated Unbilled Costs	Total
40 are Sole Practitioners	£ 50,000	£2,000,000
40 are Medium Sized Firms of 1-3 Partners	£ 75,000	£3,000,000
20 are 4 plus Partner firms	£ 150,000	£3,000,000
		£8,000,000

20) TABLE SHOWING THE COSTS WHICH THE LAW SOCIETY SHOULD HAVE INCURRED IN THE SHEIKH 2005 INTERVENTION (£9.99)

ALLEGATION	WORK REQUIRED TO PROVE OR DISPROVE ALLEGATION	COST
Allegation of Cash Shortage of £41,125	The Law Society should have appointed as Investigators sighted individuals who would have seen the 16 Arch lever files on Thirkettle	£0
Round Sum Transfers of £475,000 including Round Sum Transfer of £58,000 LSC Transfers	The Law Society should have purchased a copy of The Guide to the Professional Conduct of Solicitors 8th Edition 1999 in which the Solicitors Account Rules 1988 can be found at Part V	£9.99
11 Bills not Posted		
		£9.99

21) TABLE SHOWING THE COSTS WHICH THE LAW SOCIETY INCURRED IN THE SHEIKH 2005 INTERVENTION

	A	B	C	D	E	F
	No of days	Court time £2700 per day	Law Society's Legal Costs	Costs paid by Solicitors to others	Value of Solicitor's unpaid time	Estimated bribes paid by Law Society (excl to Judges)
March 2005 Attempted theft of the Sheikh £258,000 NRAM Remortgage Proceeds						
Without notice hearing	1hr	£750	£10,000 A barrister £5000 (Martineau Johnson			£5000 to the barrister £2,000 To Martineau Johnson or Heather Lavington
Return date	½ day	£1,350	£10,000 etc A barrister and Martineau Johnson		£2000	£10,000 to barristers for both sides £254,000 (The Sheikh-NRAM Remortgage Monies
April 2005 – July 2005. Solicitor's Para 6 (4) Withdrawal of Vesting Resolution Application and associated hearings in the High Court						
7 April 2005 Application for Return of Practicing Certificate	1 day	£2,700	£20,000 (Queen's Counsel) £10,000 (Russell Cooke)	£15,000 (Radcllffes)	£100,000	£50,000 (Gregory Treverton Jones KC)
Directions Hearing	½ day	£1,350	£10,000 (Queen's Counsel) £50,000 (Russell Cooke)			
High Court Trial May – July 2005	13 days	£35,100	£700,000 (Queen's Counsel and Junior Counsel) £350,000 (Russell Cooke)	£408,000		
September 2005 Timothy Dutton's Fraudulent Advice to the High Profile Litigation Panel						
Detailed analysis in Part 1D8			£50,000 (Timothy Dutton KC)			£20,000 (Timothy Dutton KC)
Sep 2005- Dec 2006 .Law Society's Appeal to the Court of Appeal based on Timothy Dutton's and Gregory Treverton Jones KC's fraudulent misrepresentations to the Court						
Law Society's Written Application for Permission	½ day	£1,350	£25,000 (Timothy Dutton KC) £10,000 (Russell Cooke)			

Court of Appeal Permission Hearing Permission .	1 day	£2700	£50,000 (Timothy Dutton KC and Andy Peebles) £20,000 (Russell Cooke)		£5000	£50,000 (Timothy Dutton KC and £30,000 Gregory Treverton Jones KC)
Court of Appeal Hearing July 2006	3 days	£8100	£250,**0**00 (Timothy Dutton KC and Andy Peebles) £75,000 (Russell Cooke)			
Jan 2007- Apr 2007. Solicitor's Appeal to the House of Lords refused on paper. Solicitor's legal team (Hugo Page KC, Philip Engelman, Jonathan Harvie KC) in fact acting for the Law Society to protect the Intervention Fraud						
Solicitor's House of Lords application for Permission to Appeal	1hr	£750	£70,000 (Timothy Dutton KC) £25,000 (Russell Cooke)	£2500 FEE £40,000 (Charles Buckley)	£10,000	£50,000 (Hugo Page KC, Philip Engelman, Jonathan Harvie KC)
Sep 2007. Solicitor's Application to the European Court of Human Rights which was accepted.						
European Court of Human Rights Application. Sept 2007				Pro bono (Philip Engelman)	£15,000	
Jun 2008. Sham Trial at the Solicitor's Disciplinary Tribunal Part						
Preliminary Issue Hearing	1/2	£1,350	£15,000	£10,000 (Hugo Page KC	£5,000	£3,000 (Tribunal Member)
Directions Hearing	1/2	£1,350	£5,000	Paid by insurers		£3,000 (Tribunal Member) £3,000 (Mr Marriott, the Insurer appointed solicitor)
No Rules Argument Hearing	1	£1,350	£15,000 (Patricia Robertson KC) £10,000 (Russell Cooke)	Paid by insurers		£3,000 (Tribunal Member)
Final Hearing	30 days (est)	£94,500	£200,000 (Patricia Robertson KC) £100,000 (Russell Cooke))	£20,000 (Weekes KC)	£35,000	£10,000 (Chairman) £10,000 (2 Members) £3,000 (3 Witnesses) £30,000 (Weekes KC)

2009. Judicial Review to stop SDT Hearing						
Hearing	1	£2700	£25,000 (Patricia Robertson KC) £10,000 (Russell Cooke))		£10,000	£20,000 (Collins)
Various (directions etc but not a full hearing)	3	£8100	£50,000 (Patricia Robertson KC) £20,000 (Russell Cooke))		£30,000	£50,000. Lord Dyson, Richards LJ, King J and others
TOTALS		£163500	£2.19M	£495,950	£212,000	£606,000

	A	B	C	D	E	F
	No of days	Court time £2700 per day	Law Society's Legal Costs	Costs paid by Solicitors to others	Value of Solicitor's unpaid time	Estimated bribes paid by Law Society
February 2008 Second Intervention						
Mar 2008. Solicitor's Withdrawal Application which 17 years later has not been heard Part 3 (4(d)						
Application for withdrawal Directions	½ day	£1,350	£30,000		£20,000	£10000 to barrister
TOTALS		£1,350	£30,000		£20,000	£10,000

22) CONDUCT AND SERVICE COMPARATORS

i) THE LAW SOCIETY'S INTERVENTION FRAUD

	PARTICULARS	
1)	SUCCESSIVE PRESIDENTS AND COMMITTEE MEMBERS (AN ESTIMATED 1000 SOLICITORS OVER THE YEARS) HAVE COMMITTED THE INTERVENTION FRAUD FOR 50 YEARS	PART 1 AND PART 2

ii) 2005 INTERVENTION. 2005-2007

	PARTICULARS	PT 1 PG
1)	SOLICITOR AND PANEL MEMBER, CHARLES SNEARY, IS BRIBED TO ENDORSE AN INTERVENTION	PAGE 172-PAGE 174
2)	GREGORY TREVERTON JONES KC (FOUNTAIN COURT) AND PAUL SAFFRON (RADCLIFFES) CONSPIRE WITH LAW SOCIETY TO PRETEND THAT THERE HAS BEEN AN INTERVENTION AND ATTEMPT (UNSUCCESSFULLY) TO LOSE THEIR CLIENT'S CHALLENGE	PAGE 860-PAGE 1762
3)	HODGE MALEK KC, ANDY PEEBLES, TREVERTON JONES KC AND PAUL SAFFRON RELY ON EVIDENCE WHICH THEY KNOW IS FALSE AND PERJURED	
4)	TREVERTON JONES KC AND PAUL SAFFRON CONSPIRE WITH THE LAW SOCIETY TO DEFRAUD THEIR CLIENT BY AGREEING THAT THE LAW SOCIETY'S COSTS PAYMENT SHOULD BE SECURED AGAINST HER PROPERTIES	
5)	TIMOTHY DUTTON KC LIES TO THE LAW SOCIETY'S HIGH PROFILE LITIGATION COMMITTEE TO OBTAIN FUNDING FOR AN APPEAL	
6)	THE LAW SOCIETY'S HIGH PROFILE LITIGATION COMMITTEE COLLUDE WITH DUTTON KC AND GRANT FUNDING TO REINSTATE THE INTERVENTION FRAUD	
7)	TREVERTON JONES KC , ANDY PEEBLES, TIMOTHY DUTTON, PAUL SAFFRON AND PETER CADMAN CONSPIRE WITH THE LAW SOCIETY, HALLETT LJ, DYSON LJ, CHADWICK LJ, MOORE-BICK LJ AND TUCKEY LJ TO PROCURE A FALSE COURT OF APPEAL JUDGMENT	
8)	HUGO PAGE KC, JONATHAN HARVIE KC (BLACKSTONE CHAMBERS) AND PHILIP ENGELMEN CONSPIRE WITH THE LAW SOCIETY AND WITH THE SUPREME COURT TO PRETEND THAT THERE HAD BEEN AN INTERVENTION AND SUMBIT SHAM GROUNDS FOR APPEAL	
9)	PHILIP ENGELMAN CONSPIRES WITH THE LAW SOCIETY AND WITH THE ECHR TO PRETEND THAT AN INTERVENTION HAD TAKEN PLACE AND SUBMITS SHAM GROUNDS IN THE EUROPEAN COURT OF HUMAN RIGHTS	

iii) THEFT OF THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES

	PARTICULARS	PT 1 PG
1)	A BARRISTER AND HEATHER LEESON PROCURE THE FIRST FRAUDULENT FREEZING ORDER AND FIRST FRAUDULENT DISCLOSURE ORDER	D8 PAGE 1607- PAGE 1723
2)	A BARRISTER AND HEATHER LEESON PROCURE THE SECOND FRAUDULENT FREEZING ORDER AND FIRST FRAUDULENT DISCLOSURE ORDER (25 MARCH 2005)	
3)	A BARRISTER AND HEATHER LEESON MAKE THE SECOND ATTEMPT TO STEAL THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES (4 MARCH 2005)	
4)	A BARRISTER , HEATHER LEESON, TREVERTON JONES KC AND PAUL SAFFRON MAKE THE THIRD ATTEMPT TO STEAL THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES (8TH MARCH 2005)	
5)	TREVERTON JONES AND PAUL SAFFRON STEAL £10,000 AS ALLEGED COSTS (8 MARCH 2005)	
6)	JOHN WEAVER AND THE LAW SOCIETY MAKE THE SIXTH ATTEMPT TO STEAL THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES (MARCH –MAY 2005)	
7)	TREVERTON JONES KC, PAUL SAFFRON AND LINDA LEE MAKE THE SEVENTH ATTEMPT TO STEAL THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES	
8)	PAUL SAFFRON STEALS £250,000 FROM RADCLIFFES WHICH WAS PROBABLY THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES	

iv) SOLICITORS DISCIPLINARY TRIBUNAL PROCEEDINGS. 2007-2009

	PARTICULARS	PT 1 PG
1)	PETER CADMAN AND PATRICIA ROBERTSON KC CRAFT A FRAUDULENT PART 4 STATEMENT REPEATING THE CHARGES DEALT WTIH IN THE HIGH COURT AND RELY ON THE LAW SOCIETY'S FALSE AND PERJURED EVIDENCE	PAGE 365- PAGE 370
2)	A SOLICITOR MEMBER BRIBED TO DISMISS AN APPLICATION TO CLARIFY THE MEANING OF ROUND SUM TRANSFER	
3)	HUGO PAGE KC CONSPIRES WITH THE LAW SOCIETY AND WITH THE SDT TO PRETEND THAT A TRANSFER OF COSTS WHICH ENDS WITH A ZERO IS A BREACH OF THE ROUND SUM TRANSFER RULE	
4)	ANESTA WEEKES KC, A BLACK BARRISTER, INDUCES THE CLIENT TO PAY THE CLIENT'S LAST £20,000 AS A FIXED FEE BY PRETENDING TO TAKE UP THE RACE CAUSE	
5)	ANESTA WEEKES KC CONSPIRES WITH THE LAW SOCIETY AND WITH THE SDT TO PRODUCE FALSE FINDING AGAINST HER CLIENT	
6)	ANESTA WEEKES KC WITHDRAWS FROM THE SDT 'TRIAL' AND LIES ABOUT HER REASONS	

v) THE RED RIVER CONVEYANCING AND MORTGAGE FRAUD. 2007

	PARTICULARS	PT 1 PG
1)	BARRISTERS HUGO PAGE KC, NIGEL MEARES, TOM SMITH KC, LEXA HILLARD KC CONSPIRE WITH BRIGGS, MANN , KITCHIN, RIMER AND LEWINSON TO COMPLETE STAGE 1 OF THE FRAUD	PAGE 377-PAGE 699
2)	PAGE KC AND MEARES FALSELY REPRESENT THAT THEY ACT FOR PERSON WHEN THAT PERSON HAS NOT INSTRUCTED THEM	
3)	MEARES CREATES THE FABRICATED ORDER	
4)	SOLICITORS, DEPUTY REGISTRAR SCHAFFER, HOWARD RICHARDS, SIMON LEVINE MICHELE MONAGHAN OF ISADORE GOLDMAN, AND STEVE ROBINSON AND AN UNKNOWN PARTNER OF BURGES SALMON COMPLETE STAGES 1-3 OF THE FRAUD	
5)	ROBERT LEONARD CONSPIRES WITH HENDERSON TO COMMIT STAGE 2 OF THE FRAUD	
6)	HUGO PAGE KC SUBMITS SHAM GROUNDS OF APPEAL	
7)	PRESIDENTS OF THE LAW SOCIETY 2007 TO DATE TURN A BLIND EYE TO THE FRAUD	
8)	THE CONVEYANCING COMMITTEE OF THE LAW SOCIETY TURN A BLIND EYE TO THE FRAUD	

v) MARC BEAUMONT'S ROMANCE SCAM. 2008.

	PARTICULARS	PT 1 PG
1)	BARRISTER, MARC BEAUMONT, COMMITS A ROMANCE SCAM TO STEAL £120,000 FROM HIS CLIENT AND HAS HIS CLIENT CARE AGREEMENT SIGNED IN INTIMATE CIRCUMTANCES	PAGE 200, PAGE 369-PAGE 370 PAGE438-PAGE 440
2)	BEAUMONT CREATES A SHAM ADVICE IN THE RED RIVER CONVEYANCING AND MORTAGE FRAUD	

vi) THE BAR MUTUAL FRAUD 2008-2010

	PARTICULARS	PT 1 PG
1)	TREVERTON JONES KC AND SAFFRON COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF SHEIKH V THE LAW SOCIETY (2005 HIGH COURT)	PAGE 314-PAGE 376
2)	TREVERTON JONES KC AND SAFFRON COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF SHEIKH V THE LAW SOCIETY (2006 COURT OF APPEAL)	
3)	HUGO PAGE KC, JONATHAN HARVIE KC, PHILP ENGELMAN COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF SHEIKH V THE LAW SOCIETY (2007 HOUSE OF LORDS)	

4)	PHILP ENGELMAN COMMITS PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO HIS CONDUCT OF SHEIKH V THE UK GOVERNMENT (2010 ECHR)	
5)	HUGO PAGE KC, MARC BEAUMONT AND ANESTA WEEKES KC COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF LAW SOCIETY V SHEIKH (2008-2009 SDT PROCEEDINGS)	
6)	HUGO PAGE KC AND NIGEL MEARES COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF RED RIVER V ANAL SHEIKH	PAGE 377- PAGE 680
7)	HUGO PAGE KC AND NIGEL MEARES COMMIT PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO THEIR CONDUCT OF RED RIVER V RABIA SHEIKH	PAGE 201-PAGE 202
8)	MARC BEAUMONT COMMITS PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO HIS CONDUCT OF RED RIVER V SHEIKH (APPEAL) AND SHEIKH V PAGE AND MEARES (BREACH OF DUTY AND FRAUD CLAIM)	PAGE 200, PAGE 369-PAGE 370 PAGE438-PAGE 440
9)	PHILIP NEWMAN COMMITS PROFESSIONAL INDEMNITY INSURANCE FRAUD IN RELATION TO HIS CONDUCT OF RED RIVER V SHEIKH (APPEAL) , SHEIKH V PAGE AND MEARES (BREACH OF DUTY AND FRAUD CLAIM AND SHEIKH V BEAUMONT (BREACH OF DUTY AND FRAUD CLAIM)	

23) COSTS COMPARATORS

	Sheikh Costs found to be dishonest overcharges	
1)	Burrows Probate. **18 months** work. Arch lever file **6 inch.** 1 corres. file **6 inch**. Docs file	12,000
2)	Thirkettle . **16 arch lever files**. Nearly **4 years** work	35,000
3)	Mcgonnell. Discretionary Will Trust and transfer of title to property	£750
	Comparators	
4)	Mcgonnell, Another solicitor drafted the usual Husband and Wife will which was ineffective for inheritance tax saving, but which the Law Society found I should have drafted	£450
5)	Treverton Jones KC'S appearance in Court in £254,000 Sheikh-NRAM Remortgage Fraudulent Injunction case. Did not submit any legal argument **½ day**	£10,000
6)	Treverton Jones KC'S application to Court for return of Practicing Certificate. Did not know that the court had no jurisdiction. **½ day**	£10,000
7)	Treverton Jones, Paul Saffron **13 days** in court challenging an intervention which had never taken place under the wrong procedure	£358,000
8)	Hodge Malek, Andy Peebles **13 days** in court supporting an intervention which had never taken place	£1m
9)	Hugo Page KC **1 day** before Kitchin in the Red River fraud when the issue was that Page 2 of the Settlement Agreement had to be turned over to read Page 3.	£10,000
10)	Marc Beaumont Advice on Briggs Fraudulent Instrument **1 single page email.** In fact the money was spent at romantic dinners and staying at hotels	£20,000
11)	Philip Newman **25 page** application to Court of Appeal in Red River and **1 hour** in court. He could not anything wrong with Briggs Fraudulent Instrument	£30,000
12)	Newman consults a solicitor (his girlfriend) to verify that Briggs undertaking would not work) A conveyancing solicitor can see its defectiveness as he is reading it, so it would take about **30 seconds**	£500
13)	Radcliffes **copying costs** for 16 arch lever files for High Court hearing	£4000
14)	Anesta Weekes KC **14 days** at the Tribunal,. Withdrew despite the fact that she was on a fixed fee retainer.	£20,000
15)	Page KC's application to the Tribunal to clarify that 'round sum transfer' did not mean 'a transfer with lots of noughts'	£10,000
16)	Philip Engelmen in the 2008 Sheikh Intervention . Estimated costs for **a day** in court to challenge an intervention which had never taken place.	£10,000
17)	Isadore Goldman to undertake the Red River Conveyancing and Mortgage Fraud	£600,000

25) £MM TO FIX CASES: BRIBES TO PAID TO THE JUDGES AND DISCIPINARY TRIBUNAL MEMBERS

Assumptions:

1) That if a decision has been made in violation of the law, of legal principles, of procedural rules, or if it is devoid of rationality or common sense, or if the decision constitutes a criminal offence, the judge or decision maker has been bribed

2) The bribe is 10% of sums up to £1m. Otherwise , it is as stated. For the Intervention Fraud, which is worth between £25m - £100m per year, the bribe is £2m . The main Red River Judges were not bribed as such: they stole Red River's title and interest to in order to steal the title to the Stoke Newington Development site from which they earned a net profit of about £60m

	ESTIMATED BRIBE
The Intervention Fraud. The Panel	
Charles Sneary fraudulently endorsed the Vesting Resolution. He apparently read 20,000 sheets in an hour, **Page 172-174** could not see any of the forgeries and falsifications in the reports **Page 951- 973, Page 979-990** and believed that the definition of a round sum transfer rule breach was doing costs transfers which end with a zero **Page 1039-1151**	£5000 . 400 per year) =£200,000)
Theft of £254,000 Sheikh-NRAM Remortgage Proceeds	
Aitken J , Cresswell J and **another High Court judge Page 1607-1717.** Aitkin made a freezing order against me. No claim form had been issued so he jurisdiction to deal with the case. Even if he knew nothing about intervention law (1) Aitkin knew that money is transacted by solicitors every minute of every day; there was nothing suspicious about it. (2) He knew that lawyers usually lie on paper applications (per Baister), so he should have relied on anything submitted . (3) He should have queried whether 'vest' meant transfer (4) He would have seen from Sch 1 that beneficially owned money is excluded from interventions (5) He should have known that Solicitor's own money is excluded from interventions (6) 'He would have seen para 6 (6) of Schedule 1 and understood that it was a criminal offence for Lloyds to have paid money out (4) He knew that Leeson had spoken to Powell Callen. He would have asked what they had said (5) He could have adjourned for a few minutes to telephone me and ask what the money represented. What would happened if a black solicitor applied to court to freeze the accounts of a partner at Linklaters in exactly the same circumstances – would Aitken have made the order?	£76,200 (£25,400 per judge)

The Intervention Fraud. The Court of Appeal's Fraudulent Judgment	
All five Lord Justices of Appeal pretended that there had been an intervention. They did not understand that an appellate court cannot change the facts of the first instance court and make up entirely new facts, effectively rewriting the original judgment on the basis only of Counsels' submissions **Hallett LJ** and **Dyson LJ** could not have been so stupid as not to have known that the £254,000 was my personal money. They pretended it was client money, but did not acknowledge that I was the client. **Page339-351** **Chadwick LJ. Moore Bick LJ** and **Tuckey LJ** 'found' that Thirkettle which had taken 4 years to complete took 3 weeks to complete. **Page 352-353** Chadwick noticed the Sheikhs' interest in the Stoke Newington Site and was probably the originator of the plan to steal it.	£10m (£2m per Lord Justice)
The Intervention Fraud. The House of Lords' Fraudulent Refusal to give permission	
Lord Bingham, Lord Rodgers and **Lord Carswell** apparently could not see anything wrong with the Court of Appeal rewriting the High Court's judgment. Permission was refused on the grounds that there was no public importance. The Court of Appeal had granted the Law Society leave to appeal on public importance grounds, so what caused the public importance of the case to disappear ? The House of Lords was in communication with the Law Society, which is obvious from the fact that within a week of the decision I received about 7 arch lever files for the SDT Hearing. It would have taken about a month to prepare them. **Page 353**	£6m (£2m per Judge)
The Intervention Fraud. The European Court of Human Rights.	
The SDT's fraudulent strike out was timed with the hearing of the ECHR Complaint, I could not represent myself as a non solicitor and when I asked for legal funding to be represented by a lawyer , the Fourth Section refused to consider it because it had not been submitted by a lawyer (there is no such requirement) . One of the Grounds of the Complaint was that Art 6 (fair trial) had been violated. The ECHR determined the case solely on the UK's submissions, so the ECHR also committed an Art 6 violation. A sham judgment was published which creates the false impression that I participated in the hearing **Sir Nicholas Bratza** was the President of the Fourth Section and a fellow Chambers Member of Briggs. I reported corruption by the Fourth Section to the President of the Court, Mr Costa. The report was forwarded to the Fourth Section. **Page 354** and **Page 718**	£350,000
The Intervention Fraud. The Solicitors Disciplinary Tribunal	
The President and Jaqueline Devonshire held a sham hearing of charges that I transferred costs which ended with a zero. It was a rehearing of the High Court trial save I was not	£50,000

permitted to clarify the charges, to cross examine witnesses or to have disclosure. When I put the Burrows and Thirkettle files before the Tribunal, they pretended they could not see them.	
Collins J Dyson LJ and other judge (Tugendhat?) refused to deal with a judicial review and a claim of fraud	£300,000
King J locked me out of Court so he could strike out my appeal. He apparently read 3 arch lever files in about 15 minutes . **Page 369**	£100,000
Richards LJ (the sexual depravity judge referred to below) dismissed the appeal against King **Page 369**	£100,000
The Red River Conveyancing and Mortgage Fraud	
Briggs, Mann, Kitchin, Henderson, Phillips. Norris. Morritt, Chadwick, Richards and others **Page 377- Page 689**	
The Bar Mutual Fraud Anal Sheikh v Marc Beaumont	
Beaumont had been instructed in the appeal against Briggs' Fraudulent Instrument. His advice was 'get a charging order and sell. Briggs did his best. Appeal no merit' . He was also guilty of a romance scam. Judgment in default was entered for £900,000. It was only default judgment on account. The final judgment would have been about £10m. Master Grey removed the judgment	£50,000
A month later , Simon J held a sham hearing at which he apparently went blind at the very point that I was showing him 3 arch lever files full of emails written in the course of a month in Beaumont's attempt to seduce me. The file was sealed for 5 years	£250,000
A month later Burnett made the First Fraudulent Civil Restraint Order	£500,000
Richards LJ purported to hear the appeal in the Court of Appeal at a time when he had withdrawn from the Bench having been accused of sexual depravity for the second time **Page 369**	£300,000
The Bar Mutual Fraud Rabia Sheikh v Hugo Page KC and Nigel Meares,	
Deputy Master Bard is a property expert. In 2010, I issued the breach of duty and or fraud claim against the barristers who had purported to represent Rabia Sheikh in the Red River Fraud. Rabia Sheikh was a random member of the public who had never met or instructed them, No defence had been filed. I asked Bard to enter judgment in default. He refused to strike out the Claim (the application before him) and acknowledge that default judgement was	£150,000

due but said that he could not enter it because 'he was only a deputy master' and that I should ask Baister. **Page 201-202.** The hearing is continuing 13 years later because there is no sealed order in the application, which also means that I cannot appeal.	
Baister threatened to call security when I asked him to enter judgment in default	£25,000
The Bar Mutual Fraud Anal Sheikh v Hugo Page KC , Nigel Meares, Lexa Hilliard, Tom Smith and other barristers and solicitors who committed the Red River Conveyancing and Mortgage Fraud	
This has been issued and served. No defence has been filed. Norris J (the author of the emails) was bribed to hold a sham strike out hearing.	£500,000
Fraudulent Civil Restraint Orders	
Burnett J, Spencer J, Tugendhat J,, Patterson J, Turner J , Norris J. Jay J. made fraudulent civil restraint orders at 'hearings ' each lasting about one to two hours in they 'found' every single legal argument in every single one of the above cases to be 'totally without merit'. The first three orders were produced without reasoned judgments. By the time of Patterson J ,the judges realised that orders without judgments are void, so the CRO judges started producing sham judgments. **Page 739-745**	£300,000 per judges totalling £2.1m

26) UKII, 2011 ILLUSTRATION IN SHEIKH APPLICATION TO THE SUPREME COURT TO DISMANTLE THE INTERVENTION FRAUD

THE PUBLC

20m clients can claim 1) return of stolen data eg wills and deeds 2) return of stolen mo ney 3) damages against the Law Society (10000 raids over 50 years x 2000 clients for each firm)

SOLICITORS

30000 solicitors who have been unlawfully raided can claim the return of billed costs and client money **£1.125 BN** (30000 X say £1.5m each) and damages **£100bn** (30000 X say £5m each)

THE UK ECONOMY

The Law Society together with the banking industry has striped the UK of **£1.65bn** : solicitors whose practices are destroyed are reliant on state benefits for the rest of their lives. Mental and physical illness results in a burden to the health care system. The financial and economic contribution they would have made is not made . The taxpayer has to pay for sham proceedings

FINANCIAL FRAUD

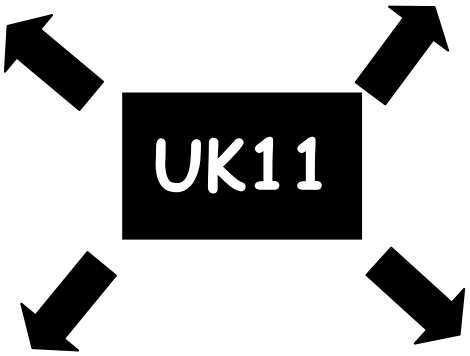
£55M untraceable residual balances including £11m *bona vacantia*, was stolen by the Law Society in collusion with the Treasury which could be spent on schools and hospitals. The Law Society has stolen £100m from the Compensation Fund Fraud over 5 years

PUBLIC ACCOUNTABILTY

Law Society Presidents, Bar Council Chairs and BSB and SRA Executives past and present can be prosecuted for their part in the SRA's Bank Scam . Baroness Ruth Deech, Patricia Robertson QC (VC BSB) Tim Dutton QC (Chair Bar Council) Anthony Townsend,Dame Janet Paraskeva can immediately be arrested immediately

SOLICITORS WHO HAVE RESETTLED OVERSEAS AND COMMONWEALTH SOLICITORS

They and their families (where they are deceased) have substantial claims. Who is going to tell them?



RACIAL EQUALITY

10000 predominantly **BME** sole practitioners and small law firms can reopen TODAY

1000 **white** barristers and solicitors from **'top'** chambers and '**magic circle**' firms can be prosecuted for the SRA's Bank Scam

PROFESSIONAL REGULATION

Automatic rescission of all disciplinary decisions against barristers and solicitors made over the past 50 years .

RIGHT TO WORK- FREEDOM OF TRADE

10000 sole practitioners and small law firms can reopen TODAY

ACCESS TO JUSTICE

10000 mainly **legal aid** practitioners and can reopen TODAY

THE END OF THE MONOPOLY OF THE BAR COUNCIL AND THE LAW SOCIETY

THE IMPACT IN THE REGULATION OF DOCTORS, ACCOUNTANTS AND OTHER PROFESSIONALS

5 DOCUMENTS

PARA 6 (1) VESTING RESOLUTION (MINUTE OF THE PANEL)

2.

REG/23418-2004/SB9
Firm No 46279

MINUTE OF AN EMERGENCY DELEGATED DECISION BY THE CHAIRMAN

Under power delegated to the Adjudication Panel under section 79 of the Solicitors's Act 1974 (as amended)

HELD ON 17 FEBRUARY 2005

Considered by: Mr Sneary (Ch)
Copied to: Miss Thomas
Dr Jackson

FORENSIC INVESTIGATIONS REPORT DATED 22 NOVEMBER 2004

ASHLEY & CO OF LONDON, NW9

ANAL SHEIKH (AD 1988), SOLE PRINCIPAL

Considered the Forensic Investigation Report dated 22 November 2004.

RESOLVED

Without prejudice to any other matters or issues:-

1. The Panel were satisfied that grounds for intervention existed under Paragraph 1(1)(e)(i) of Part I of Schedule 1 Solicitors Act 1974 (as amended), namely that the Panel were satisfied that they had reason to suspect dishonesty on the part of Ms Anal Sheikh practising as Ashley & Co at 47 – 49 Blackbird Hill, London, NW9 8RS in connection with her practice as a solicitor.

2. The Panel were also satisfied that grounds for intervention existed under Paragraph 1(1)(c) of Part I of Schedule 1 Solicitors Act 1974 (as amended) namely that Ms Anal Sheikh failed to comply with the Solicitors Accounts Rules.

3. The Panel balanced the need to exercise powers of intervention in order to protect the public and the serious consequences of intervention for a solicitor. The Panel were satisfied that it was necessary to exercise powers of intervention in this case in view of the nature of the matters identified in the Forensic Investigations Report dated 22 November 2004.

4. The Panel were further satisfied that it was necessary to exercise powers of intervention in order to protect the public.

5. The Panel **RESOLVED** to intervene into Anal Sheikh's practice at Ashley & Co of 47 – 49 Blackbird Hill, London, NW9 8RS.

8. To exercise the powers conferred by Part II of Schedule 1 to the Solicitors Act 1974 and that, pursuant to Section 35 of the Solicitors Act 1974 and paragraph 6(1) of the said Schedule, the monies referred to in paragraph 6(2)(a) of the said Schedule and the right to recover or receive them should vest in the Law Society.

7. To serve on Ms Sheikh or her firm and on any other person having possession of the said monies a certified copy of these resolutions and a Notice prohibiting the payment out of any such sums of money.

8. To nominate a solicitor or successive solicitors to hold the said monies for the purposes stated in paragraph 7(1) of the said Schedule.

9. Pursuant to paragraph 9(1) of the said Schedule to appoint a solicitor to take possession of the documents referred to in sub-paragraph (a) of that paragraph and otherwise to act as the Law Society's agent in accordance with such directions as may from time to time be given to him for all the purposes of Part II of the said Schedule.

10. To give notice to Ms Sheikh or her firm and on any other person having possession of the said documents requiring the production or delivery to the said agent of the said documents.

11. To authorise any of the persons nominated by the Panel for that purpose to give notice of any requirements on behalf of the Law Society and for all the purposes of the said Schedule 1 for giving effect to the above resolutions.

12. To make no direction under section 15(1B) of the Solicitors Act 1974.

13. To refer the conduct of Anal Sheikh to the Solicitors Disciplinary Tribunal.

14. The Panel further **RESOLVED** to inform Anal Sheikh that she, having been invited to give an explanation in respect of a matter relating to her conduct, has failed to give an explanation which the Panel regarded as sufficient and satisfactory. Accordingly, a discretion now vested in the Law Society with respect to the issue of Ms Sheikh's next Practising Certificate under the provisions of Section 12(1)(e) of the Solicitors Act 1974 (as amended).

15. To give notice in accordance with Paragraph 1(2) of Part 1 of the Solicitor' Act 1974 (as amended) that the Panel were satisfied that Ms Anal Sheikh has failed to comply with Rules made by virtue of Section 31 of the Solicitors' Act 1974 (as amended), namely the Solicitors Practice Rules 1990, including but not limited to Rules 1 and 15 and that accordingly powers conferred by Part II of the said Schedule 1 are exercisable in relation to her practice as a solicitor at Ashley & Co, Solicitors.

16. There is no right of review in respect of the above decisions at paragraphs 13 and 14 above.

NOTICE TO THE PARA 6 (3) THIRD PARTIES (BANK) PROHIBITING PAYMENT OUT

25. FEB. 2005 14:13 From-LTSB PADDINGTON BUS CTR 02072624212 T.NO. 04
17/02/2005 16:21 01926439726 THE LAW SOCIETY

SOLICITORS ACT 1974, SECTION 35
AS AMENDED BY COURTS & LEGAL SERVICES ACT 1990, SECTION 91

Schedule 1, Paragraphs 1(1) and 6

IN THE MATTER OF ANAL SHEIKH

PRACTISING AS ASHLEY & CO

To: Banking Support
Lloyds TSB plc
1st Floor
48 Chiswell Street
London EC1Y 4XX

Note 1
The year should be 2005

I CERTIFY that on 17th February 2004 the Professional Regulation Adjudication Panel of the Law Society, acting under the authority delegated to it by the Council of the Law Society and in accordance with Section 35 of the Solicitors Act 1974 and paragraphs 1(1) (a) & (c) of Schedule 1 to the Act, resolved on behalf of the Council as follows:-

To exercise the powers conferred by Part II of Schedule 1 to the Solicitors Act 1974 and that, pursuant to Section 35 of the Act and paragraph 6(1) of the said Schedule, the monies referred to in paragraph 6(2)(a) of the said Schedule and the right to recover or receive them should vest in the Law Society.

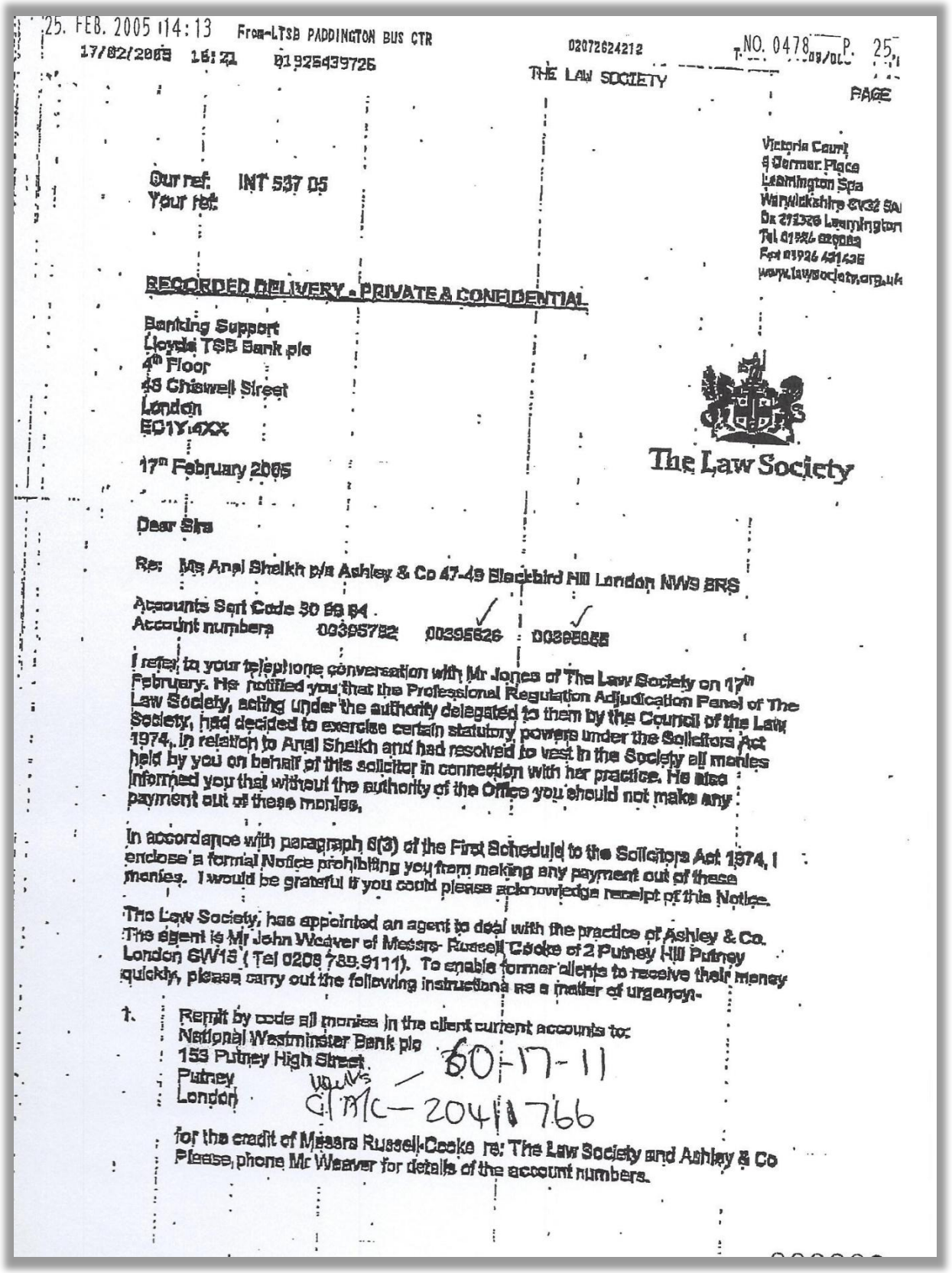
ACCORDINGLY the powers conferred by Part II of the said Schedule have become exercisable in relation to the practice of Ashley & Co and the monies referred to in paragraph 6(2)(a) of the Schedule and the right to recover or receive them have vested in the Law Society (whether such monies were or are received by the person holding them before or after the Panel's resolution) and shall be held by the Law Society on trust to exercise in relation to them the powers conferred by Part II of the Schedule and subject thereto on trust for the persons beneficially entitled to them.

YOU ARE HEREBY GIVEN NOTICE under paragraph 6(3) of the Schedule above that you are prohibited from making any payment out of any sums of money held by you on behalf of Anal Sheikh or her firm Ashley & Co in connection with her practice or with any trust of which she is or formerly was a trustee, such monies having now become vested in the Law Society.

DATED 17th February 2005

Robin Pearson
Manager Intervention & Disciplinary Unit

LAW SOCIETY'S LETTER TO BANK REQUESTING TRANSFER OF THE SOLICITOR'S MONEY



25. FEB. 2005 14:13 From-LTSB PADDINGTON BUS CTR 02072624212 T-NO. 0478 P. 25
17/02/2005 16:21 01925439725 THE LAW SOCIETY PAGE

Victoria Court
8 Dormer Place
Leamington Spa
Warwickshire CV32 5AJ
Dx 27126 Leamington
Tel 01926 820082
Fax 01926 431435
www.lawsociety.org.uk

Our ref: INT 537 05
Your ref:

RECORDED DELIVERY - PRIVATE & CONFIDENTIAL

Banking Support
Lloyds TSB Bank plc
4th Floor
48 Chiswell Street
London
EC1Y 4XX

The Law Society

17th February 2005

Dear Sirs

Re: Ms Anjl Sheikh p/a Ashley & Co 47-49 Blackbird Hill London NW9 8RS

Accounts Sort Code 30 99 64
Account numbers 00395792 00395626 00395665

I refer to your telephone conversation with Mr Jones of The Law Society on 17th February. He notified you that the Professional Regulation Adjudication Panel of The Law Society, acting under the authority delegated to them by the Council of the Law Society, had decided to exercise certain statutory powers under the Solicitors Act 1974, in relation to Anjl Sheikh and had resolved to vest in the Society all monies held by you on behalf of this solicitor in connection with her practice. He also informed you that without the authority of the Office you should not make any payment out of these monies.

In accordance with paragraph 6(3) of the First Schedule to the Solicitors Act 1974, I enclose a formal Notice prohibiting you from making any payment out of these monies. I would be grateful if you could please acknowledge receipt of this Notice.

The Law Society has appointed an agent to deal with the practice of Ashley & Co. The agent is Mr John Weaver of Messrs Russell Cooke of 2 Putney Hill Putney London SW15 (Tel 0208 789 9111). To enable former clients to receive their money quickly, please carry out the following instructions as a matter of urgency:-

1. Remit by code all monies in the client current accounts to:
National Westminster Bank plc
153 Putney High Street
Putney
London

60-17-11
a/c 20411766

for the credit of Messrs Russell-Cooke re: The Law Society and Ashley & Co
Please phone Mr Weaver for details of the account numbers.

2. Send by separate remittance to the above-named bank any monies in client deposit accounts when held in the names of designated clients. The remittance should be split if more than one such account is held and the monies should be sent for the credit of Messrs Russell-Cooke but with the reference The Law Society, Robinsons and the designated client.

3. Accept this letter as notice of withdrawal of any money in client deposit accounts and upon expiry of due time (or earlier if it is required by the agent) remit such money in the manner above.

4. Arrange for bank statements in respect of all client accounts to be sent to the agent as soon as possible.

5. Provide The Law Society with a list of the balances on all accounts to which the enclosed Notice relates (both client and office accounts).

I confirm that the office accounts vest in the Law Society, and if in credit should be remitted as referred to above, to the National Westminster Bank.

I am sure you will understand the reason for the urgency in dealing with the matter. Thank you for your co-operation.

Yours faithfully

Robin Penson
Manager Intervention & Disciplinary Unit

Please always quote our above reference when contacting us

LAW SOCIETY'S LETTER TO BANK REQUESTING TRANSFER OF THE SOLICITOR'S MONEY (ANNOTATED)

17/02/2005 16:21 01925439725 THE LAW SOCIETY PAGE

Victoria Court
9 Dormer Place
Leamington Spa
Warwickshire CV32 5AJ
Dx 27326 Leamington
Tel 01926 [illegible]
Fax 01926 431436
www.lawsociety.org.uk

Our ref: INT 537 05
Your ref:

RECORDED DELIVERY - PRIVATE & CONFIDENTIAL

Banking Support
Lloyds TSB Bank plc
4th Floor
48 Chiswell Street
London
EC1Y 4XX

The Law Society

17th February 2005

Dear Sirs

Re: Ms Anjl Shaikh p/a Ashley & Co 47-49 Blackbird Hill London NW9 8RS

Accounts Sort Code 30 99 64
Account numbers 00395792 00395626 00395855

I refer to your telephone conversation with Mr Jones of The Law Society on 17th February. He notified you that the Professional Regulation Adjudication Panel of The Law Society, acting under the authority delegated to them by the Council of the Law Society, had decided to exercise certain statutory powers under the Solicitors Act 1974, in relation to Anjl Shaikh and had resolved to vest in the Society all monies held by you on behalf of this solicitor in connection with her practice. He also informed you that without the authority of the Office you should not make any payment out of these monies.

In accordance with paragraph 6(3) of the First Schedule to the Solicitors Act 1974, I enclose a formal Notice prohibiting you from making any payment out of these monies. I would be grateful if you could please acknowledge receipt of this Notice.

The Law Society, has appointed an agent to deal with the practice of Ashley & Co. The agent is Mr John Weaver of Messrs. Russell Cooke of 2 Putney Hill Putney London SW15 (Tel 0208 789 9111). To enable former clients to receive their money quickly, please carry out the following instructions as a matter of urgency:-

1. Remit by code all monies in the client current accounts to:
National Westminster Bank plc
153 Putney High Street
Putney
London

60-17-11
GIRC-20411766

for the credit of Messrs Russell-Cooke re: The Law Society and Ashley & Co
Please phone Mr Weaver for details of the account numbers.

The Law Society makes a false representation that under Schedule 1 transfers from the Solicitor's Bank Account can be made with the Law Society's consent

The Law Society fraudulent asks the Bank to transfer the Solicitors Practice Accounts to Russell Cooke in violation of Para 6 (6), which is a criminal offence

17/02/2006 15:21 01926439725 THE LAW SOCIETY P.004/006

2. Send by separate remittance to the above-named bank any monies in client deposit accounts when held in the names of designated clients. The remittance should be split if more than one such account is held and the monies should be sent for the credit of Messrs Russell-Cooke but with the reference The Law Society, Robinsons and the designated client.

3. Accept this letter as notice of withdrawal of any money in client deposit accounts and upon expiry of due time (or earlier if it is required by the agent) remit such money in the manner above.

4. Arrange for bank statements in respect of all client accounts to be sent to the agent as soon as possible.

5. Provide The Law Society with a list of the balances on all accounts to which the enclosed Notice relates (both client and office accounts).

I confirm that the office accounts vest in the Law Society, and if in credit should be remitted as referred to above, to the National Westminster Bank.

I am sure you will understand the reason for the urgency in dealing with the matter. Thank you for your co-operation.

Yours faithfully

Robin Penson
Manager Intervention & Disciplinary Unit

Please always quote our above reference when contacting us

Para 6(3) of Schedule 1 to the Sharia's Code Governing the Practice of Solicitors

IN THE MATTER OF ANAL SHEIKH

PRACTISING AS ASHLEY & CO

To: Banking Support
Lloyds TSB plc
1st Floor
48 Chiswell Street
London EC1Y 4XX

I CERTIFY that on 17th February 2004 the Professional Regulation Adjudication Panel of the Law Society, acting under the authority delegated to it by the Council of the Law Society and in accordance with Section 35 of the Solicitors Act 1974 and paragraphs 1(1) (a) & (c) of Schedule 1 to the Act, resolved on behalf of the Council as follows:-

To exercise the powers conferred by Part II of Schedule 1 to the Solicitors Act 1974 and that, pursuant to Section 35 of the Act and paragraph 6(1) of the said Schedule, the monies referred to in paragraph 6(2)(a) of the said Schedule and the right to recover or receive them should vest in the Law Society.

ACCORDINGLY the powers conferred by Part II of the said Schedule have become exercisable in relation to the practice of Ashley & Co and the monies referred to in paragraph 6(2)(a) of the Schedule and the right to recover or receive them have vested in the Law Society (whether such monies were or are received by the person holding them before or after the Panel's resolution) and shall be held by the Law Society on trust to exercise in relation to them the powers conferred by Part II of the Schedule and subject thereto on trust for the persons beneficially entitled to them.

YOU ARE HEREBY GIVEN NOTICE under paragraph 6(3) of the Schedule above that you are prohibited from making any payment out of any sums of money held by you on behalf of Anal Sheikh or her firm Ashley & Co in connection with her practice or with any trust of which she is or formerly was a trustee, such monies having now become vested in the Law Society.

DATED 17th February 2005

Robin Pearson
Manager Intervention & Disciplinary Unit

LAW SOCIETY'S LETTER TO BANK REQUESTING TRANSFER OF THE SOLICITOR'S MONEY (ADAPTED)

From-LTSB PADDINGTON BUS CTR 02072624212 NO. 0478 P. 25
17/02/2005 16:21 01925439726 THE LAW SOCIETY PAGE

Victoria Court

Our ref: INT 537 05
Your ref:

Abu Bakr al-Baghdadi
The Caliph
The Caliphate
Al Raqqa
Islamic State of Iraq and the Levant
Fax no 00034 55602
Telephone no 00034

RECORDED DELIVERY - PRIVATE & CONFIDENTIAL

Banking Support
Lloyds TSB Bank plc
4th Floor
48 Chiswell Street
London
EC1Y 4XX

17th February 2005

Dear Sirs

Re: Ms Anal Sheikh t/a Ashley & Co 47-49 Blackbird Hill Lor

Accounts Sort Code 30 99 64
Account numbers 00395782 00395626 00395665

I refer to your telephone conversation with Mr Jones of The Law Society on 17th February. He notified you that the Professional Regulation Adjudication Panel of the Law Society

I refer to your telephone conversation with Abu Hamza al-Qurashi of Professional Regulation of the Shura Council . He notififed you that the Shura Council acting under the Sharia Law regulating solicitors has decided to exercise its powers in relation to Anal Sheikh and has resolved to vest in the Shura Council all monies held by your on her account.

He also informed you that you without the authority of the Shura Council you should not make any payment our of these monies.

In accordance with Para 6(3) of Schedule 1 to the Sharia's Code Governing the Practice of Solicitors you are asked to transfer Miss Sheikh's funds to the following account

Remit by code all monies in the client current accounts to:
National Westminster Bank plc 60-17-11
153 Putney High Street
Putney
London
A/C 20411766

for the credit of Messrs Russell-Cooke re: The Law Society and Ashley & Co
Please phone Mr Weaver for details of the account numbers.

17/02/2006 15:21 01926439725 THE LAW SOCIETY P.004/006

2. Send by separate remittance to the above-named bank any monies in client deposit accounts when held in the names of designated clients. The remittance should be split if more than one such account is held and the monies should be sent for the credit of Messrs Russell-Cooke but with the reference The Law Society, Robinsons and the designated client.

3. Accept this letter as notice of withdrawal of any money in client deposit accounts and upon expiry of due time (or earlier if it is required by the agent) remit such money in the manner above.

4. Arrange for bank statements in respect of all client accounts to be sent to the agent as soon as possible.

5. Provide The Law Society with a list of the balances on all accounts to which the enclosed Notice relates (both client and office accounts).

I confirm that the office accounts vest in the Law Society, and if in credit should be remitted as referred to above, to the National Westminster Bank.

I am sure you will understand the reason for the urgency in dealing with the matter. Thank you for your co-operation.

Yours faithfully

Robin Penson
Manager Intervention & Disciplinary Unit

Please always quote our above reference when contacting us

Victoria Court
8 Dormer Place
Leamington Spa
Warwickshire CV32 5AE
Dx 292320 Leamington
Tel 01926 820082
Fax 01926 431435
www.lawsociety.org.uk

Our ref: INT/537-2005/IJ2

RECORDED DELIVERY - PRIVATE & CONFIDENTIAL

Anal Sheikh
Ashley & Co Solicitors
47-49 Blackbird Hill
London NW9 8RS

17 February 2005

The Law Society

Dear Ms Sheikh

Re: Intervention

Acting under the powers delegated to it by the Council of the Law Society, the Professional Regulation Adjudication Panel has resolved that it has reason to suspect dishonesty on your part and is also satisfied that you have failed to comply with rules made by virtue of Section 32 of the Solicitors Act 1974, namely the Solicitors' Accounts Rules. This decision was made following the consideration of information including a Forensic Investigation Report dated 22 November 2004, a copy of which has already been disclosed to you. The Panel has accordingly decided to exercise certain powers conferred on the Council by Section 35 and Schedule 1 of the Solicitors Act 1974 (as amended). The exercise of these powers operates immediately by virtue of Section 15(1A) of the 1974 Act (as amended) to suspend your current Practising Certificate.

The Panel has further resolved, pursuant to Section 35 and paragraph 6(1) of Schedule 1 of the 1974 Act, to vest in the Society all monies referred to in paragraph 6(2)(a) as stated in the enclosed Notice, which contains a certified copy of the resolution of the Panel. A similar Notice is being served on your bankers.

The Panel has further resolved to notify you (and this letter is such Notice) that it requires you to produce to or deliver to its Agent, Mr John Weaver of Russell Cooke of 2 Putney Hill Putney London SW15 6AB (Tel 0208 789 9111) , all documents in your possession or in the possession of your firm in connection with your practice or with any controlled trust. Such documents should be produced or delivered to the Agent at your office at 47-49 Blackbird Hill London NW9 8RS on Friday 18 February 2005 at 10.30am. Mr Ian Jones of the Law Society will also attend.

Direct Line: 01926 439 636
Extension: 6142
Direct Fax: 01926 439 726
ian.jones@lawsocicty.org.uk

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I direct your attention to sub-paragraph 9(3) of Schedule 1 which provides that if any person having possession of any such documents fails to comply with the requirements under sub-paragraphs 9(1) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £400; further, under sub-paragraph 9(4) the High Court, on the application of the Law Society, may order a person required to produce or deliver documents to produce or deliver them.

I also direct your attention to paragraph 13 of Schedule 1 of the Solicitors Act 1974 which provides that the costs of the intervention are recoverable from you.

You may care to consult your own legal representative.

Please acknowledge receipt of this letter.

Yours sincerely

Robin Penson
Manager Intervention and Disciplinary Unit

Please always quote our above reference when contacting us

Direct Line: 01926 439 636
Extension: 6142
Direct Fax: 01926 439 726
ian.jones@lawsociety.org.uk

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PARA 6 (3) NOTICE TO SOLICITOR PROHIBITING PAYMENT OUT

SOLICITORS ACT 1974, SECTION 35
AS AMENDED BY COURTS & LEGAL SERVICES ACT 1990, SECTION 91

Schedule 1, Paragraphs 1(1) and 6

IN THE MATTER OF ANAL SHEIKH

PRACTISING AS ASHLEY & CO

To: Anal Sheikh
Ashley & Co Solicitors
47-49 Blackbird Hill
London NW9 8RS

Note 2

No date inserted

I CERTIFY that on the Professional Regulation Adjudication Panel, acting under the authority delegated to them by the Council of the Law Society and in accordance with Section 35 of the Solicitors Act 1974 and paragraph 1(1)(a)(I) and (c) of Schedule 1 to the Act, resolved on behalf of the Council as follows:-

> To exercise the powers conferred by Part II of Schedule 1 to the Solicitors Act 1974 and that, pursuant to Section 35 of the Act and paragraph 6(1) of the said Schedule, the monies referred to in paragraph 6(2)(a) of the said Schedule and the right to recover or receive them should vest in the Law Society.

ACCORDINGLY the powers conferred by Part II of the said Schedule have become exercisable in relation to the practice of Ashley & Co and the monies referred to in paragraph 6(2)(a) of the Schedule and the right to recover or receive them have vested in the Law Society (whether such monies were or are received by the person holding them before or after the Panel's resolution) and shall be held by the Law Society on trust to exercise in relation to them the powers conferred by Part II of the Schedule and subject thereto on trust for the persons beneficially entitled to them.

YOU ARE HEREBY GIVEN NOTICE of the foregoing and that you are prohibited from making any payment out of any sums of money held by you or your firm Ashley & Co in connection with your practice or with any trust of which you are, or formerly were, a trustee, such monies having now become vested in the Law Society.

DATED this 17 day of February 2005

Robin Penson
Manager Intervention and Disciplinary Unit

6 LAW AND LEGAL PRINCIPLES

1) FUNDAMENTAL PRINCIPLES.

a) DICEY'S FIRST PRINCIPLE

A. V. Dicey, was a British jurist and constitutional theorist who, in his widely known publication Introduction to the Study of the Law of the Constitution (1885) ,

Dicey's first principle of the rule of law was that 'no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land

b) DICEY'S THREE PRINCIPLES AND LORD BINGHAM'S EIGHT PRINCIPLES OF THE RULE OF LAW

Dicey also broke the rule of law down into three concepts:

1) No man could be lawfully interfered or punished by the authorities except for breaches of law established in the ordinary manner before the courts of land
2) No man is above the law and everyone, whatever his condition or rank is, is subject to the ordinary laws of the land
3) The result of the ordinary law of the land is constitution

Against the background of the Constitutional Reform Act 2005, Lord Bingham articulates eight principles that comprise the rule of law in *The Rule of Law*, 2010

(1) The law must be accessible and so far as possible intelligible, clear and predictable.
(2) Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion.
(3) The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.
(4) Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably.
(5) The law must afford adequate protection of fundamental human rights.
(6) Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve.
(7) The adjudicative procedures provided by the state should be fair.
(8) The rule of law requires compliance by the state with its obligations in international law as in national law.

c) PARLIAMENTARY SOVEREIGNTY

'Parliamentary sovereignty is a principle of the UK constitution. It makes Parliament the supreme legal authority in the UK, which can create or end any law. Generally, the courts cannot overrule its legislation and no Parliament can pass laws that future Parliaments cannot change. Parliamentary sovereignty is the most important part of the UK constitution' UK Parliament

d) LEGAL CERTAINTY

Legal certainty is a principle in national and international. The principle of legal certainty requires that

- laws and decisions must be made public
- laws and decisions must be definite and clear
- the decisions of courts must be regarded as binding
- legitimate interests and expectations must be protected.

e) THE PRESUMPTION OF INNOCENCE

The presumption of innocence is the universal principle that a person accused of any crime is considered innocent until proven guilty. Under the presumption of innocence, the legal burden of proof is on the prosecution to prove the charges.

The principle was famously referred to as the "golden thread" in the criminal law by Lord Sankey LC in Woolmington v *DPP* [1935] UKHL

> *"Throughout the web of the English Criminal Law one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner's guilt subject to... the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given by either the prosecution or the prisoner... the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained."*

The presumption is now codified in instruments:

1) The Universal Declaration of Human Rights, article 11 which states: "Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defense."

2) The International Covenant on Civil and Political Rights, art. 14, paragraph 2 which states that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."

3) Art. 66 of the Rome Statute of the International Criminal Court, which states "Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law."

4) The Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe says (art. 6.2): "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law." This convention has been adopted by treaty and is binding on all Council of Europe members.

5) In the UK, the presumption of innocence is provided for by section 6 of the Human Rights Act 1998,

f) THE PRSUMPTION OF GUILT

A presumption of guilt is the presumption within the criminal justice system that a person is guilty of a crime, until proven to be innocent

The presumption of guilt is the injustice which leads to racial profiling, harassment, verbal abuse and abuse of power by law enforcement officials seen in stop-and-search measures, ill-treatment, arbitrary arrests, and excessive use of force, at times leading to death.

g) KIN PUNISHMENT (GUILT BY ASSOCIATION)

The following summary of kin punishment or guilt by association is taken from Wikipedia:

> Kin punishment is the practice of punishing the family members of someone who is accused of committing a crime, either in place of or in addition to the perpetrator of the crime. It refers to the principle in which a family shares responsibility for a crime which is committed by one of its members, and it is a form of collective punishment. Kin punishment has been used as a form of extortion, harassment, and persecution by authoritarian and totalitarian states. Kin punishment has been practiced in many Western countries, and they include pre-Christian European cultures, Nazi Germany, the Soviet Union, and it has also been practiced in non-Western countries, including China, Japan, and North Korea.
>
> Traditional examples
> Europe[
>
> Traditional Irish law required the payment of a tribute (*Éraic*) in reparation for murder or other major crimes. In the case of homicide, if the attacker fled, the fine had to be paid by the tribe to which he belonged.[1]
> In medieval Welsh law, the kin of an offender was liable to make compensation for his wrongful act. This penalty (called *Galanas*) was generally limited to murder.[2]
> The medieval Polish Główszczyzna fine functioned similarly to the Anglo-Saxon and Scandinavian weregild.
>
> Arabia[edit]
>
> Traditional Arab society, which is clan-based, strongly adheres to the concept of collective responsibility. Bedouins recognize two main forms of penalty for a crime

against a member. These are blood revenge, referred to as *Qisas* (صاصقِ, "revenge") and blood money, *Diyya* (دية, "blood money"/"ransom"). In cases of severe crimes such as murder and rape, blood revenge is the proscribed punishment. If a murder occurs, clansmen of the victim have the right to kill the murderer or one of his male clansmen with impunity. Certain crimes are liable for multiple acts of revenge, for example, the murder of women and children is avenged fourfold. Crimes considered treacherous, such as the murder of a guest, are also avenged fourfold.

Alternatively, a crime punishable by blood revenge can be commuted to a severe fine if the family of the offended party agrees to it. Blood money is paid jointly by the clan of the offending member to the clan of the victimized member. Bedouins differentiate between crimes in which the group must pay as a standing obligation without reimbursement from the perpetrator of the offense, and crimes where the latter must reimburse them. Crimes where the clan is obligated to pay a joint fee without any reimbursement are murder, violent assault, or insults and other offenses committed during a violent conflict. The collective payment of fines for such crimes is viewed as a justified contribution to the welfare of the injured party, rather than a penalty to the perpetrator. Other offenses given a blood-price are crimes against property and crimes against honor.[3] Concepts based on the Arabian laws of blood revenge and blood money are found in Islamic Sharia law, and are thus variously adhered to in Islamic states.

China[edit]

Main article: Nine familial exterminations

China historically adhered to the concept of liability among blood relatives. During the Qin and Han dynasties, families were subject to various punishments according to the punishment of the offending member. When the offense was punishable by death by severing the body at the waist, the offender's parents, siblings, spouse, and children were executed. When the offense was punishable by death and public display of the body, the offender's family was subject to imprisonment with hard labor. When the offender's sentence was exile, their kin was exiled along with them.[4] The most severe punishment, given for capital offenses, was the Nine familial exterminations (zú zhū (族誅), literally "family execution", and miè zú (灭族/滅族)), implemented by tyrannical rulers. This punishment entailed the execution of all the close and extended kin of the individual, categorized into nine groups: four generations of the paternal line, three from the maternal line, and two from the wife's. In the case of Confucian scholar Fang Xiaoru, his students and peers were uniquely included as a tenth group.

Modern examples[edit]

Communist states[edit]

In the Soviet Union, during Joseph Stalin's 1930s Great Purge, many thousands of people were imprisoned to Gulag as "relatives of the enemies of the people", using the Repression of Family Members of Traitors of the Motherland clause as a basis. One well-known example was Anna Larina, the wife of Nikolai Bukharin, who was imprisoned after her husband was accused of treason. The NKVD Order No. 00689, signed in 1938, rolled back some of the more extreme measures, as such that only spouses who were informed of their partner's political activities were arrested.
Similar practices took place in the People's Republic of China during the Cultural Revolution of the 1960s. A prominent example is Deng Pufang, who was arrested and tortured by the Red Guards when his father, Deng Xiaoping, was purged by Mao Zedong.

Numerous testimonies of North Korean defectors confirm the practice of kin punishment (연좌제, *yeonjwaje* literally "association system") in North Korea, under which three generations of a political offender's family can be summarily imprisoned or executed.[5] Such punishment is based on internal Workers' Party protocols and lies outside of the formal legal system.[6] Relatives are not told why they fell under suspicion and the punishment extends to children born in prison.[7] The association system was introduced with the North Korean state's founding in 1948, having previously existed under the Joseon kingdom.[7][5]

Historical and Nazi Germany[edit]
Main article: Sippenhaft

In traditional Germanic law, the law of Germanic peoples (before the widespread adoption of Roman canon law) accepted that the clan of a criminal was liable for offenses committed by one of its members. In Nazi Germany, this concept was revived so that the relatives of persons accused of crimes against the state, including desertion, were held responsible for those crimes.[8][9]

Israel[edit]

The Israeli government's use of home demolition within territories occupied in 1967 was condemned as collective punishment on account that the homes of terrorists are often family homes. As a result of internal and international pressure against the practice an appeals process against demolition was established in 1989, and consequently the number of demolitions declined. However, in subsequent periods of violence the house demolition policy has been frequently employed as a deterrent against terrorism.[10][11] In an effort to stop suicide bombings during the Second Intifada, the Supreme Court of Israel in July 2002 accepted the legality of expelling family members of terrorists from the West Bank to the Gaza Strip if they were found to have abetted the terrorist's activities. They argued that it was not a general deterrent because it limited the use of expulsion to cases where "that person, by his own deeds, constitutes a danger to security of the state."[12] Expulsion to Gaza was discontinued after Israel's unilateral disengagement from the Gaza Strip.

Venezuela

The Independent International Fact-Finding Mission on Venezuela [es] concluded in a September 2021 report that Venezuelan security and intelligence agents reportedly applied the principle of *Sippenhaftung*, using methods including and kidnapping and detention of relatives of critics, real or perceived, to accomplish arrests.[

2) CRIMINAL LAW

a) THEFT ACT 1968 S. 1 (THEFT) S.8 (ROBBERY) S.9 (BURGLARY) S.17 (FALSE ACCOUNTING) S.20 (SUPPRESSION) S.21 (BLACKMAIL) S. 22 (HANDLING STOLEN GOODS)

1 Basic definition of theft.

(1)A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

(2)It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3)The five following sections of this Act shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Act, shall apply only for purposes of this section).

2 "Dishonestly"

(1)A person's appropriation of property belonging to another is not to be regarded as dishonest—

(a)if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or

(b)if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or

(c)(except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2)A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

3 "Appropriates".

(1)Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2)Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

4 "Property".

(1)"Property" includes money and all other property, real or personal, including things in action and other intangible property.

(2)A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say—

(a)when he is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; or

(b)when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c)when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

- For purposes of this subsection "land" does not include incorporeal hereditaments; "tenancy" means a tenancy for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and "let" shall be construed accordingly.

(3)A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

- For purposes of this subsection "mushroom" includes any fungus, and "plant" includes any shrub or tree.

(4)Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcase of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession.

5 "Belonging to another".

(1)Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2)Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3)Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other.

(4)Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5)Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

6 "With the intention of permanently depriving the other of it".

(1)A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2)Without prejudice to the generality of subsection (1) above, where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

Theft, robbery, burglary, etc.

7 Theft.

A person guilty of theft shall on conviction on indictment be liable to imprisonment for a term not exceeding **[F1** seven years**]**.

8 Robbery.

(1)A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2)A person guilty of robbery, or of an assault with intent to rob, shall on conviction on indictment be liable to imprisonment for life.

9 Burglary.

(1)A person is guilty of burglary if—

(a)he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) below; or

(b)having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2)The offences referred to in subsection (1)(a) above are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm .... therein, and of doing unlawful damage to the building or anything therein.

(3)A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding—

(a)where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;

(b)in any other case, ten years.

(4)References in subsections (1) and (2) above to a building, and the reference in subsection (3) above to a building which is a dwelling, shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.**]**

10 - .

17 False accounting. Theft Act 1968

(1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another,—

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular; he shall, on conviction on indictment, be liable to imprisonment for a term not exceeding seven years.

(2) For purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

20 Suppression, etc. of documents.

(1)A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department shall on conviction on indictment be liable to imprisonment for a term not exceeding seven years.

(3)For the purposes of this section . "valuable security" means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

21 Blackmail.

(1)A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—

(a)that he has reasonable grounds for making the demand; and

(b)that the use of the menaces is a proper means of reinforcing the demand.

(2)The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

(3)A person guilty of blackmail shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years.

22 Handling stolen goods.

(1)A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2)A person guilty of handling stolen goods shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years.

b) FRAUD ACT 2006. S. 2 (FALSE REPRESENTATION) S. 3 (FAILURE TO DISCLOSE INFORMATION) S.4 (ABUSE OF POSITION)

1 Fraud

(1)A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).

(2)The sections are—

(a)section 2 (fraud by false representation),

(b)section 3 (fraud by failing to disclose information), and

(c)section 4 (fraud by abuse of position).

(3)A person who is guilty of fraud is liable—

(a)on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);

(b)on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).

(4)Subsection (3)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

2 Fraud by false representation

(1)A person is in breach of this section if he—

(a)dishonestly makes a false representation, and

(b)intends, by making the representation—

(i)to make a gain for himself or another, or

(ii)to cause loss to another or to expose another to a risk of loss.

(2)A representation is false if—

(a)it is untrue or misleading, and

(b)the person making it knows that it is, or might be, untrue or misleading.

(3)"Representation" means any representation as to fact or law, including a representation as to the state of mind of—

(a)the person making the representation, or

(b)any other person.

(4)A representation may be express or implied.

(5)For the purposes of this section a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

3 Fraud by failing to disclose information

A person is in breach of this section if he—

(a)dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and

(b)intends, by failing to disclose the information—

(i)to make a gain for himself or another, or

(ii)to cause loss to another or to expose another to a risk of loss.

4 Fraud by abuse of position

(1)A person is in breach of this section if he—

(a)occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,

(b)dishonestly abuses that position, and

(c)intends, by means of the abuse of that position—

(i)to make a gain for himself or another, or

(ii)to cause loss to another or to expose another to a risk of loss.

(2)A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

5 "Gain" and "loss"

(1)The references to gain and loss in sections 2 to 4 are to be read in accordance with this section.

(2)"Gain" and "loss"—

(a)extend only to gain or loss in money or other property;

(b)include any such gain or loss whether temporary or permanent;

and "property" means any property whether real or personal (including things in action and other intangible property).

(3)"Gain" includes a gain by keeping what one has, as well as a gain by getting what one does not have.

(4)"Loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has.

6 Possession etc. of articles for use in frauds

(1)A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.

(2)A person guilty of an offence under this section is liable—

(a)on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);

(b)on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or to both).

(3)Subsection (2)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

7 Making or supplying articles for use in frauds

(1)A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article—

(a)knowing that it is designed or adapted for use in the course of or in connection with fraud, or

(b)intending it to be used to commit, or assist in the commission of, fraud.

(2)A person guilty of an offence under this section is liable—

(a)on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);

(b)on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).

(3)Subsection (2)(a) applies in relation to Northern Ireland as if the reference to 12 months were a reference to 6 months.

8 "Article"

(1)For the purposes of—

(a)sections 6 and 7, and

(b)the provisions listed in subsection (2), so far as they relate to articles for use in the course of or in connection with fraud,

"article" includes any program or data held in electronic form.

(2)The provisions are—

(a)section 1(7)(b) of the Police and Criminal Evidence Act 1984 (c. 60),

(b)section 2(8)(b) of the Armed Forces Act 2001 (c. 19), and

(c)Article 3(7)(b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

(meaning of "prohibited articles" for the purposes of stop and search powers).

c) MONEY LAUNDERING AND PROCEEDS OF CRIME 2002

The following is from Paget's Law of Banking Part I The Regulatory Framework Chapter 2 Money Laundering

1 INTRODUCTION TO MONEY LAUNDERING

(a) Background

[2.1]

Legislation aimed at combating the laundering of the proceeds of criminal (and terrorist) conduct has a profound effect on the relationship between banks and their customers.

It is the concept of *facilitating* the movement of the proceeds of crime which unavoidably places credit institutions at the forefront of the detection and prevention of criminal activity. Credit institutions bear onerous duties, but without their assistance the proceeds of crime would be freely transferable.

However, at times the demands of statutory compliance and contractual obligation to a customer can conflict. Banks and their employees need to be familiar with the obligations imposed on them by the relevant statutes.

(b) The legislation

The UK's money laundering legislation remains at present largely driven by EU law[1]. This has given rise to three principal strands of statutory obligations. This chapter deals with the obligations imposed on banks and individuals by those rules in the following order:

(1) The Proceeds of Crime Act 2002[2] ('POCA 2002'): this provides for a range of offences which may be committed by a bank whose customer is engaged in criminal activities or in receipt of criminal property.
(2) The Terrorism Act 2000 ('TA 2000'): this provides for a range of offences similar to those under POCA 2002 and aimed at preventing the retention and control of terrorist property.
(3) The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017[3] ('the 2017 Regulations'): these impose a specific set of procedures targeted against money laundering which must be put in place and implemented by banks and other similar institutions. Failure to do so may lead to conviction for the commission of a criminal offence or the imposition of a civil penalty.

(c) Money laundering

[2.3]

Money laundering is defined in art 1(3) of the Fourth Directive to mean the following conduct when committed intentionally:

(1) The conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of that person's action.
(2) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such activity.
(3) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity.
(4) Participation in, association to commit, attempts to commit, and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing paragraphs.

Money laundering for the purposes of POCA 2002 is given a wide meaning. Section 340(11) of POCA 2002 provides as follows:

"Money laundering is an act which—

(a) constitutes an offence under section 327, 328, or 329,

(b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),

(c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a), or

(d) would constitute an offence specified in paragraph (a), (b) or (c) if done in the United Kingdom."

POCA 2002 applies to all proceeds of crime, however small. However, given the inconvenience of this for credit institutions, the Serious Organised Crime and Police Act 2005 ('SOCPA 2005') introduced a 'threshold amount' for deposit-taking bodies in operating an account of £250 (s 339A)

2 THE PROCEEDS OF CRIME ACT 2002

The money laundering offences are contained in Part 7 of POCA 2002 and can be divided into three categories, all of which may be relevant to banks and similar institutions:

(1) the principal offences;
(2) the disclosure offences; and
(3) tipping off.

(a) Key concepts

(i) Criminal conduct

[2.6]

The offences under POCA 2002, ss 327–329 include reference to 'criminal conduct', which is conduct which constitutes an offence in the UK or would constitute an offence if it occurred here (s 340(2)). In relation to ss 327–329, this definition has been slightly modified by SOCPA 2005 because a person does not commit an offence under these sections if:

(

a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom; and

(

b) the relevant criminal conduct:

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory; and

(ii) is not of a description prescribed by an order made by the Secretary of State[1].

(ii) Criminal property

Reference is also made in POCA 2002, ss 327–329 to 'criminal property'. Property is 'criminal property' if:

(

a) it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly); and

(

b) the alleged offender knows or suspects that it constitutes or represents such a benefit (s 340(3)).

As criminal property is property that is already criminal property at the time of the offence, it follows that its 'criminality' must have arisen from criminal conduct distinct from the conduct alleged to constitute the money laundering offence. The Supreme Court in *R v GH*[1] concluded that this view accorded with the natural meaning of ss 327 to 329, and approved the line of Court of Appeal authority dealing with this question. See for example: *R v Loizou and others*[2]; *Kensington International Ltd v Republic of Congo*[3]; *R v Geary*[4].

'Criminal property' does not embrace property which is merely intended to become criminal property: *R v Akhtar*[5]. Furthermore, the prosecution must prove, amongst other things, at least the type of criminal conduct that has generated the alleged criminal property. It is not sufficient to show that the circumstances were such that the property could have had no lawful origin: see *R v W and anor*[6].

Section 340(4) provides that it is immaterial who carried out the conduct, who benefited from it, and whether the conduct occurred before or after the passing of POCA 2002[7]. If an item of criminal property is sold to a bona fide purchaser, then it is no longer criminal property (consistent with section 329(2), discussed further below). However, the proceeds of that sale will be criminal property: see *R v Afolabi*[8].

(iii) Suspicion

The concept of 'suspicion' makes numerous appearances in the money laundering provisions of POCA 2002, and is an important concept given the role that banks may play as a potential conduit for funds.

It is therefore critical to appreciate when 'suspicion' for these purposes is deemed to arise. Fortunately, its meaning in this context is clear from the authorities.

Suspicion is something less than prima facie proof. Specifically, the meaning of 'suspicion' was considered by the Court of Appeal in *R v Da Silva*[1] in the context of an alleged offence under s 93A of the Criminal Justice Act 1988, where Longmore LJ said[2]:

"It seems to us that the essential element in the word "suspect" and its affiliates, in this context, is that the defendant must think that there is a possibility, which is more than fanciful, that the relevant facts exist. A vague feeling of unease would not suffice. But the statute does not require the suspicion to be "clear" or "firmly grounded and targeted on specific facts", or based upon "reasonable grounds". To

require the prosecution to satisfy such criteria as to the strength of the suspicion would, in our view, be putting a gloss on the section."

It follows that a person must make disclosure of a suspicion even if the suspicion has no reasonable foundation (see further below). The Court went on to confirm that this possibility must be more than fleeting. It must be of a settled nature, in contrast to a case in which, for example, a person did entertain a suspicion but, on further thought, dismissed it from his mind as being unworthy or contrary to the evidence or as outweighed by other considerations.

As for 'suspicion' under s 328, in *Squirrell Ltd v National Westminster Bank plc*[1] the court adopted the definition of Lord Devlin in *Hussien v Chong Fook Kam*[2] that:

"Suspicion in its ordinary meaning is a state of conjecture or surmise where proof is lacking; I suspect but I cannot prove. Suspicion arises at or near the starting point of an investigation of which the obtaining of prima facie proof is the end."

In *K Ltd v National Westminster Bank plc*[3], the Court of Appeal followed the test in *R v Da Silva* (see para 2.8 above) and thereby adopted it for the purposes of civil cases and specifically in respect of POCA 2002.

The position was again confirmed in *Shah v HSBC*[4] by Longmore LJ at paragraph 21:

"I need not set out again the reasoning in *Da Silva* on which this court founded its conclusion that the relevant suspicion need not be based on reasonable grounds. We are, in any event, bound by both it and *K Ltd*. To allow a claim based on rationality (even in the *Wednesbury* sense) or negligently self-induced suspicion would be to subvert those decisions…."

The existence of suspicion is a subjective fact[5]. There is no legal requirement that there should be reasonable grounds for the suspicion. The relevant bank employee either suspects or he does not. If he does suspect he must inform the authorities, either himself, or through the bank's nominated officer[6]. The subjective nature of suspicion leads to the irony that, whereas a person cannot be guilty of, for example, transferring criminal property unless the property is in fact criminal property[7], a person can be guilty of a failure to report a suspicion even though the suspicion relates to property which is not in fact criminal property.

Guidance as to what constitutes 'suspicion' is also contained in the Guidance issued by the Joint Money Laundering Steering Group ('the JMSLG Guidance'). This states that suspicion is more subjective than knowledge and falls short of proof based on firm evidence. It also states that a person who considers a transaction to be suspicious would not be expected to know the exact nature of the criminal offence or that the particular funds were definitely those arising from crime[8].

(b) The principal offences (ss 327–329)

[2.10]

As already noted, money laundering is defined to include an offence under ss 327–329 of POCA 2002. These offences are known as the principal offences. These sections, particularly s 328, are of considerable importance to banks accepting deposits from their customers (subject to the threshold amount referred to above). It should be noted that the Supreme Court held in 2010 that at that time the FSA had, and now the Financial Conduct Authority ('FCA') retains, the power to prosecute offences of money laundering under these sections, in spite of these offences not being expressly mentioned in ss 401 and 402 of the Financial Services and Markets Act ('FSMA 2000') — see *R v Rollins*[1].

In each case, the alleged offender must be shown to know or suspect that the funds in question constitute or represent a person's benefit from criminal conduct.

(i) Section 327 – concealing, disguising, converting, transferring or removing

By section 327 of POCA 2002[1], a person commits an offence if he conceals, disguises, converts, transfers or removes from the UK 'criminal property' (s 327(1)).

Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it (s 327(3)).

'Conversion' of criminal property for the purposes of s 327 (which is not defined in POCA 2002) is not a reference to the civil tort of conversion, but the Court of Appeal has indicated that it 'cannot be far removed from its nature…. [and it] only requires a dealing with someone else's property so as to question, deny or interfere with the owner's title to it': *R v Fazal*[2]. In the same case, it was also held that even though someone else had made the deposits into the offender's bank account, the offender had given his full co-operation throughout the period of the conversions and that was sufficient to convict. However, it seems likely that the meaning of 'conversion' in this context is wider than in the context of the civil tort of conversion[3], potentially encompassing any deliberate change, alteration, substitution or transformation of the nature, form, or quality of property.

Property is 'criminal property' for the purposes of POCA 2002 if it constitutes or represents a person's benefit from 'conduct', provided the alleged offender knows or suspects that it does so[4]. This is discussed further above at para 2.7.

'Criminal conduct' is conduct which constitutes an offence in any part of the UK or would constitute an offence in any part of the UK if it occurred there. It is immaterial who carried out the conduct, who benefited from it and whether the conduct occurred before or after the passing of the legislation: POCA 2002, s 340(2) and (4).

[2.12]

The relevance of POCA 2002, s 327 to banks is that the payment of the proceeds of crime into a bank account is a transfer of criminal property within s 327(1) and, in a similar vein, a transfer out by a bank would also constitute such an offence assuming the appropriate *mens rea* is present.

(ii) Section 328 – arrangements

[2.13]

By s 328(2) of POCA 2002, a person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person[1]. In order for there to be a contravention to this section, it need not be shown that there was any form of shared purpose in the arrangement to facilitate the money laundering: see *Bowman v Fells* at paragraph 98[2].

This has important implications for financial institutions. For example, the opening of an account which the customer intends to be a repository for the proceeds of crime would be sufficient to constitute an arrangement within s 328. Similarly, the provision of financial advice or other forms of professional advice and services could amount to an arrangement and so constitute a prohibited act.

Indeed, the need for vigilance by banks and other similar institutions is emphasised by the fact that an arrangement need not be derived from an institution's own clients. For example, a broker might be legitimately 'concerned in an arrangement' selling shares owned by a legitimate vendor, but if it received funds from an illegitimate purchaser into its client account such an arrangement would likely constitute one that facilitated the retention, use or control of criminal property. However, such an illegitimate purchaser must be identified or identifiable — see *Dare v Crown Prosecution Service*[3].

"is not to turn innocent third parties like NatWest into criminals. It is to put them under pressure to provide information to the relevant authorities to enable the latter to obtain information about possible criminal activity and to increase their prospects of being able to freeze the proceeds of crime[4]."

[2.14]

Indeed, this purpose makes the effect of s 328 on banks plain, an illustration of which is the case of *Squirrell Ltd v National Westminster Bank plc*[1]. The defendant bank froze a customer's account on the ground that the bank suspected that the account was being used for money laundering. The bank refused to inform its customer why it had blocked the account because to have done so would have involved committing the offence of tipping off. Nine days later, the customer applied to court for an order unblocking the account. Laddie J first expressed sympathy with the customer's position[2]:

"It is not proved or indeed alleged that it or any of its associates has committed any offence. It, like me, has been shown no evidence raising even a prima facie case that it or any of its associates has done anything wrong. For all I know it may be entirely innocent of any wrongdoing. Yet, if POCA has the effect contended for by Natwest and HMCE, the former was obliged to close down the account, with possible severe economic damage to Squirrell. Furthermore it cannot be suggested that either Natwest or HMCE are required to give a cross-undertaking in damages. In the result, if Squirrell is entirely innocent it may suffer severe damage for which it will not be compensated. Further, the blocking of its account is said to have deprived it of the resources with which to pay lawyers to fight on its behalf. Whether or not that is so in this case, it could well be so in other, similar cases. Whatever one might feel were Squirrell guilty of wrongdoing, if, as it says, it is innocent of any wrongdoing, this can be viewed as a grave injustice."

Laddie J then noted that the purpose of s 328(1) is to put innocent third parties under pressure to provide information to the relevant authorities to enable the latter to obtain information about possible criminal activity and to increase their prospects of being able to freeze the proceeds of crime. To this end, a party caught by s 328(1) can avoid liability if he brings himself within the statutory defence created by s 328(2), which provides that a person does not commit such an offence if he makes an authorised disclosure under POCA 2002, s 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent under POCA 2002, ss 335 or 336 (see further below).

Laddie J held[3] that the course adopted by the bank had been unimpeachable; it had done precisely what the legislation intended it to do. There could be no question of ordering the bank to operate the account in accordance with its customer's instructions because that would have required the bank to commit a criminal offence. The form of protection which the legislation confers on a customer whose account has been frozen is that the appropriate consent is treated as having been given if:

(

a) an authorised disclosure is made to a constable or customs officer; and

(

b) the 7 day notice period has expired without a notice of refusal, or the 31 day moratorium period (which follows on from the notice period) has expired without a freezing order having been obtained.

(iii) Section 329 – acquisition, use and possession

[2.15]

By s 329(1) of POCA 2002, a person commits an offence if he acquires, uses or has possession of criminal property.

In *R v Gabriel*[4], Gage LJ gave guidance to prosecutors on the proper approach to proving an offence under s 329:

"There can be no doubt that the money laundering provisions of the Proceeds of Crime Act 2002 are draconian. The scope of s 329 is wide. It requires proof of no more mens rea than suspicion. The danger is that juries will be tempted to think that it is for the defence to prove innocence rather than the prosecution to prove guilt. In

R v Loizou and others[2] the prosecution had set out the factors upon which it relied and from which it submitted the jury could draw proper inferences. In our judgment it is a sensible practice for the prosecution, as was done in *Loizou*, either by giving particulars, or at least in opening, to set out the facts upon which it relies and the inferences which it will invite the jury to draw as proof that the property was criminal property. In doing so it may very well be that the prosecution will be able to limit the scope of the criminal conduct alleged."

In saying that s 329 requires proof of no more *mens rea* than suspicion, Gage LJ was not referring to anything in s 329 itself, but to the fact that the definition of criminal property in POCA 2002, s 340(3) includes a requirement that the alleged offender knows or suspects that the property constitutes or represents a benefit from criminal conduct.

(c) Defences

[2.16]

The main statutory defences to all three of the principal offences are:

(

i) that the person makes an authorised disclosure under POCA 2002, s 338 (see below) and (if the disclosure is made before he does the prohibited act) he has 'appropriate consent' (under POCA 2002, ss 335 or 336).

(

ii) that the person intended to make such disclosure, but had a 'reasonable excuse' for not doing so (POCA 2002, ss 327(2), 328(2) and 329(2)).

(

iii) in completing the actus reus of the offence, the person was in fact carrying out a function relating to the enforcement of POCA 2002 or any other Act whose aim is to tackle criminal conduct or the benefit from criminal conduct (POCA 2002, ss 327(2), 328(2) and 329(2)).

(

iv) the person knows or believes on reasonable grounds that the relevant criminal conduct occurred in a particular country or territory outside the UK and the relevant criminal conduct was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and is not of a description prescribed by an order made by the Secretary of State (POCA 2002, ss 327(2A), 328(2A) and 329(2A) as inserted by s 102 of the Serious Organised Crime and Police Act 2005 ('SOGPA 2005').

The third defence listed above is unlikely to be of relevance to banks or similar institutions. The purpose of the fourth defence was to avoid the 'driving on the right problem' — were this provision not to exist, relevant criminal conduct outside the UK (on the basis that it is criminal in the UK) might have included (for example) driving on the right, but even in a country where that was allowed. The other, important, defences are considered in detail below.

[2.17]

In addition, exclusive to the POCA 2002, s 329 offence is the defence of adequate consideration. Section 329(2)(c) provides that a person does not commit an offence if 'he acquired or used or had possession of the property for adequate consideration'. Curiously, but as a plain reading of the provision would suggest, this defence is even available where the defendant who acquired the property knows it to be stolen: *Hogan v DPP*[1]. However, s 329(3) defines what constitutes inadequate consideration. Specifically, s 329(3) provides that this defence will not be available where the value of the consideration is significantly less than the value of the property, use or possession, nor where the person knows or suspects that the provision of goods or services may help another to carry out criminal conduct. It has been held, for example, that the granting of a mortgage over a property amounts to adequate consideration for the purposes of s 329: *R v Kausar*[2].

(i) Section 330 – failure to disclose: regulated sector

[2.22]

Banks fall within the regulated sector and thus are under a duty to disclose known or suspected money laundering by virtue of POCA 2002, s 330[1], which provides in sub-sections (1) to (4):

"(1) A person commits an offence if the conditions in subsections (2) to (4) are satisfied.

(2) The first condition is that he: (a) knows or suspects, or (b) has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering.

(3) The second condition is that the information or other matter (a) on which his knowledge or suspicion is based, or (b) which gives reasonable grounds for such knowledge or suspicion, came to him in the course of a business in the regulated sector.

(3A) The third condition is (a) that he can identify the other person mentioned in subsection (2) or the whereabouts of any of the laundered property, or (b) that he believes, or it is reasonable to expect him to believe, that the information or other matter mentioned in subsection (3) will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(4) The fourth condition is that he does not make the required disclosure to (a) a nominated officer, or (b) a person authorised for the purposes of this Part by the Director General of the National Crime Agency, as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him."

The section refers to 'another person'. It follows that the duty to disclose is not limited to knowledge or suspicions of money laundering by a customer. If information supplied by a customer gives rise to knowledge or suspicion of money laundering by a non-customer, disclosure must also be made in those circumstances.

Importantly, by contrast with ss 327 to 329 of POCA 2002, the necessary mental element of the offence is knowledge or suspicion of money laundering or the presence of reasonable grounds for suspicion. There is therefore in part an objective test of what a person should know or suspect. This places a significant onus on banks and other similar institutions to be vigilant in light of the information that is available to them. Either subjective knowledge or suspicion, or in the absence of that the presence of reasonable grounds for knowledge or suspicion, is sufficient (subject to sub-sections (3) and (3A)) to engage the duty to disclose.

[2.23]

The required disclosure is disclosure of the identity of the other person mentioned in subsection (2) in para 2.22 above and the whereabouts of the laundered property (insofar as he knows those facts), and the information or other matter mentioned in subsection (3) in para 2.22 above (POCA 2002, s 330(5)).

Section 330 also refers to the concept of 'laundered property' rather than criminal property (s 330(5A)) which is not a concept used by the other provisions in Part 7. This is defined as the 'property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in'.

[2.24]

A person who fails to make disclosure does not commit an offence under POCA 2002, s 330 if:

(

i) the person has a reasonable excuse for not making the required disclosure (s 330(6)(a));

(

ii) he is a professional legal adviser or other relevant professional adviser and the information came to him in privileged circumstances (s 330(6)(b));

(

iii) he does not know or suspect money laundering *and* he has not been provided by his employer with 'such training as is specified by the Secretary of State by order for the purposes of this section' (s 330(6)(c), s 330(7)1[1]);

(

iv) he is employed by, or is in partnership with, a professional legal adviser or a relevant professional legal adviser to provide the adviser with assistance or support, the information comes to the person in connection with the provision of such assistance or support and the information came to him in privileged circumstances (s 330(6)(c), s 330(7B)); or

(

v) he knows or believes on reasonable grounds that the money laundering is occurring in a particular country or territory outside the UK, the money laundering is not unlawful under the criminal law applying in that country or territory and is not of a description prescribed in an order made by the Secretary of State (s 330(7)).

[2.25]

Banks will frequently have to deal with disclosure issues, and this provision applies to all bank employees. The required disclosure is to be made either to a bank's own nominated officer or to the NCA. A disclosure to a nominated officer (commonly referred to as the 'Money Laundering Reporting Officer' or 'MLRO') is a disclosure which is made to a person nominated by the alleged offender's employer to receive disclosures and which is made in the course of the alleged offender's employment. Therefore an individual employee's liability will be discharged under this section by reporting to the bank's MLRO and then following that person's instructions. The responsibility then passes to the MLRO, who has to decide whether to report on to the authorities.

Section 11 of the Criminal Finances Act 2017 has amended POCA 2002 to introduce ss 339ZB to 339ZG which (in essence) permit companies who operate in the regulated sector to share information when one party believes that the other may have information they need to determine whether or not an entity they deal with is engaged in money laundering. If information is exchanged, then both parties must jointly submit a joint disclosure report of their activities to the FCA, explaining the reasoning behind the sharing of information and whether there is cause for further investigation.

(ii) Section 331 – failure to disclose: nominated officers in the regulated sector

[2.26]

The MLRO is subject to a similar offence under POCA 2002, s 331 where the information on which his knowledge or suspicion is based, or which gives reasonable grounds for such suspicion, came to him in consequence of a disclosure made under POCA 2002, s 330. The same defences are available as in s 330 with one exception which may not be material to banks, namely the protection afforded to legal advisers in certain privileged circumstances (contrast s 330(6)(b) and s 330(7B) with the absence of equivalent provisions in s 331).

In deciding whether an offence has been committed under POCA 2002, ss 330 or 331 the court must consider whether the alleged offender followed any relevant guidance which was at the time concerned issued by a supervisory authority, approved by the Treasury, and published in a manner appropriate to bring the guidance to the attention of persons likely to be affected by it (ss 330(8), 331(7)). Of relevance here is the guidance issued by the JMLSG and approved by the Treasury.

d) SERIOUS CRIME ACT 2015

s 45. Offence of participating in activities of organised crime group

(1)A person who participates in the criminal activities of an organised crime group commits an offence.

(2)For this purpose, a person participates in the criminal activities of an organised crime group if the person takes part in any activities that the person knows or reasonably suspects—

(a)are criminal activities of an organised crime group, or

(b)will help an organised crime group to carry on criminal activities.

(3)"Criminal activities" are activities within subsection (4) or (5) that are carried on with a view to obtaining (directly or indirectly) any gain or benefit.

(6)"Organised crime group" means a group that—

(a)has as its purpose, or as one of its purposes, the carrying on of criminal activities, and

(b)consists of three or more persons who act, or agree to act, together to further that purpose.

(7)For a person to be guilty of an offence under this section it is not necessary—

(a)for the person to know any of the persons who are members of the organised crime group,

(b)for all of the acts or omissions comprising participation in the group's criminal activities to take place in England and Wales (so long as at least one of them does), or

(c)for the gain or benefit referred to in subsection (3) to be financial in nature.

(8)-

(9)A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 5 years.

d) CONSPIRACY TO DEFRAUD

[1]A person who agrees with one or more other persons by dishonesty[1] either to deprive a person of something which is his or to which he would be or might be entitled or to injure some proprietary right of a person[2] is guilty of conspiracy to defraud[3] at common law[4]. Causing economic loss or prejudice need not be the purpose of the parties, but a defendant must have foreseen that such loss or prejudice would or might result[5]. In addition, where a person agrees with one or more other persons to bring about a situation which would or might deceive a public official performing public duties[6] to act contrary to such a duty, there is a conspiracy to defraud at common law, even though there is no risk of causing economic loss to anyone or of prejudicing his economic interests[7].

If a person agrees with any other person or persons that a course of conduct is to be pursued[8], and that course will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions[9], the fact that it will do so does not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement[10].

Unless there are aggravating features such as fraud, misrepresentation, violence, intimidation or inducement of a breach of contract, price-fixing or cartel agreements in restraint of trade, even if they are unreasonable and not in the public interest, and therefore void and unenforceable, are not indictable as conspiracies to defraud[11].

1 The test for dishonesty requires first, ascertaining (subjectively) the actual state of the accused's knowledge or belief as to the facts and second, whether the accused's actions had been dishonest according to the (objective) standards of ordinary decent people: see *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords Club)* [2017] UKSC 67,

[1] Halsbury's Laws of England/Criminal Law (Volume 25 (2020), paras 1–552; Volume 26 (2020), paras 553–1014)/5.

[2018] AC 391, [2018] 2 All ER 406 (overruling *R v Ghosh* [1982] QB 1053, 75 Cr App Rep 154, CA; applied in *R v Barton* [2020] EWCA Crim 575, [2020] All ER (D) 173 (Apr)). The reasonableness or otherwise of the accused's belief is a matter of evidence, often in practice determinative, going to whether he had held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether the belief is genuinely held, and there is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest (see *Ivey v Genting Casinos* at [74]).

2 As to whether the victim may be a stranger outside the contemplation of the parties to the conspiracy see *R v Hollinshead* [1985] AC 975, 81 Cr App Rep 365, HL.

3 It is not duplicitous for a single count of conspiracy to defraud to be founded on many similar fraudulent transactions; and furthermore so long as there is a single agreement to defraud, the conspirators need not all be involved in every transaction: see *R v Mba* [2006] EWCA Crim 624, [2006] All ER (D) 73 (Jan).

4 *Scott v Metropolitan Police Comr* [1975] AC 819, 60 Cr App Rep 124, HL. The Criminal Law Act 1977 s 5(1) (abolition of offence of conspiracy at common law: see PARA 114) does not affect the offence of conspiracy to defraud: s 5(2) (amended by the Criminal Justice Act 1987 s 12(2)). See *R v Evans* [2014] 1 WLR 2817 (an agreement dishonestly to cause economic injury to the object victim could not constitute a common law conspiracy to defraud unless proprietary right or interest of the victim were actually or potentially injured).

As to impossible common law conspiracies see PARA 115. See also *R v Clucas* [1949] 2 KB 226, 33 Cr App Rep 136, CCA; *R v Sinclair* [1968] 3 All ER 241, 52 Cr App Rep 618, CA; *R v Allsop* (1976) 64 Cr App Rep 29, CA; *Tarling v Government of the Republic of Singapore* (1978) 70 Cr App Rep 77, HL; *R v Hollinshead* [1985] AC 975, 81 Cr App Rep 365, HL; *Wai Yu-tsang v R* [1992] 1 AC 269, 94 Cr App Rep 264, PC; *Adams v R* [1995] 1 WLR 52, [1995] 2 Cr App Rep 295, PC; *R v Cassell* [2016] UKPC 19, [2017] 2 All ER 904. It was decided in *R v Zemmel, R v Melik* (1985) 81 Cr App Rep 279, CA, that an agreement dishonestly and temporarily to delay payment of a debt is not a conspiracy to defraud, but such an agreement clearly falls within the ambit of *Scott v Metropolitan Police Comr* and the decision in *R v Zemmel, R v Melik* must therefore be regarded as wrong. As to conspiracies to defraud by officers of companies see COMPANIES VOL 14 (2016) PARA 315.

An offence at common law of conspiracy to defraud is an offence in relation to which serious crime prevention orders may be made: see SENTENCING VOL 92 (2015) PARA 353.

5 *R v Allsop* (1976) 64 Cr App Rep 29, CA; *Wai-Yu-tsang v R* [1992] 1 AC 269, 94 Cr App Rep 264, PC. Contrast *A-G's Reference (No 1 of 1982)* [1983] QB 751, [1983] 2 All ER 721, CA (causing of economic loss or prejudice must be defendant's purpose).

6 This phrase does not include bank managers and the like: *DPP v Withers* [1975] AC 842 at 877–878, 60 Cr App Rep 85 at 106–107, HL, per Lord Kilbrandon. See also *R v Moses, R v Ansbro* [1991] Crim LR 617, CA. In *Wai Yu-tsang v R* [1992] 1 AC 269, 94 Cr App Rep 264, the Privy Council advised that this type of conspiracy to defraud is not limited to public officials acting in pursuance of their duties.

7 *Board of Trade v Owen* [1957] AC 602 at 622, 41 Cr App Rep 11 at 40 per Lord Tucker; *Welham v DPP* [1961] AC 103, 44 Cr App Rep 124; *DPP v Withers* [1975] AC 842 at 872–873, 60 Cr App Rep 85 at 102–103 per Lord Simon of Glaisdale, and at 877 and 106–107 per Lord Kilbrandon; *Wai Yu-tsuang v R* [1992] 1 AC 269, 94 Cr App Rep 264, PC. The cases concerned with persons performing public duties, in which it is not necessary to show an intention on the part of the deceiver to inflict pecuniary or economic harm to convict a person of intention to defraud, are not to be regarded as a special category, but rather as exemplifying the general principle that conspiracies to defraud are not restricted to cases of intention to cause the victim economic loss: *Wai Yu-tsuang v R* at 270 and 279 (disapproving dictum of Lord Diplock in *Scott v Metropolitan Police Comr* [1975] AC 819 at 840–841, 60 Cr App Rep 124 at 131, HL; and approving dictum of Lord Radcliffe in *Welham v DPP* [1961] AC 103 at 124, 44 Cr App Rep 124 at 141–142, HL); applied in *Adams v R* [1995] 1 WLR 52, [1995] 2 Cr App Rep 295, PC.

8 Criminal Justice Act 1987 s 12(1)(a).

9 Criminal Justice Act 1987 s 12(1)(b).

10 Criminal Justice Act 1987 s 12(1). As to the penalty for conspiracy to defraud see PARA 380.

11 *Norris v Government of the United States of America* [2008] UKHL 16, [2008] 1 AC 920, [2008] 2 All ER 1103. See also *R v Goldshield Group plc* [2008] UKHL 17, [2009] 2 All ER 737, [2009] 1 Cr App Rep 491. A price-fixing or cartel agreement constitutes an offence under the Enterprise Act 2002 s 188: see COMPETITION VOL 18 (2009) PARA 319.

f) PERVERTING THE COURSE OF JUSTICE

It is an offence at common law to do an act tending and intended to pervert the course of public justice (including criminal investigations and proceedings before tribunals).

The maximum penalty is life imprisonment and/ or a fine. There is no offence-specific guideline but the Sentencing Council's *General Guideline: Overarching Principles* (see Supplement, SG2-1) is used for all offenders sentenced on or after 1 October 2019.

Sentencing authorities were reviewed in *Abdulwahab* [2018] EWCA Crim 1399, [2018] 2 Cr App R (S) 46 (383), in which the Court of Appeal set out seriousness factors (at [14]):

First, conduct which tends and is intended to pervert the course of justice strikes at the heart of the administration of justice and almost invariably calls for a custodial sentence. Deterrence is an important aim of sentencing in such cases, although, as was pointed out in *Radcliffe* [2016] EWCA Crim 2,7 [2016] 1 Cr App R (S) 65 (488), the necessary deterrence may sometimes be achieved by the imposition of an immediate custodial sentence without necessarily requiring a sentence of great length. Secondly, the appropriate sentence of course depends on the particular circumstances of the specific case. The circumstances vary across a very wide range. Therefore, only limited assistance can be derived from considering previous decisions in other cases.

Thirdly, in assessing the seriousness of a particular offence, relevant factors include the seriousness of the underlying offence, the nature of the deceptive conduct, the period of time over which it was continued, whether it cast suspicion upon or led to the arrest of an innocent person, and the success or otherwise of the attempt to pervert the course of justice. In addition, of course, the offender's previous character and any personal mitigation must be taken into account.

In *Abdulwahab* D was involved in a serious case and deliberately persisted in what may have been a spontaneous lie made up during a police interview, and which was designed to help a friend. The lie ultimately had few adverse effects save his own imprisonment. He should have been sentenced to 15 months' imprisonment before credit for plea. The Court was referred to the Sentencing Council definitive guideline, *Imposition of Community and Custodial Sentences* (see Supplement, SG9-1), indicating that a prison sentence should not be suspended where appropriate punishment can only be achieved by immediate custody. The Court held that not only was that the case for this defendant, it will also be so in most cases of attempting to pervert the course of public justice.

The remaining cases set out below reflect the wide range of circumstances in which this offence may be committed and give illustrations of sentences.

Seeking to Avoid Prosecution In *Griffin* [2019] EWCA Crim 563, [2019] 2 Cr App R (S) 32 (237) D sought to avoid prosecution for four driving offences by paying to be included in an elaborate scheme of identity fraud, enabling D to give false details as to the driver of his vehicles at relevant times. The sentencing judge started at three years bearing in mind the sophistication of the scheme, but the Court of Appeal felt a reduction was necessary bearing in mind D himself was not the mastermind. The starting point should have been two years, so with reduction for plea the resulting sentence should have been 16 months' immediate imprisonment. In *Snow* [2008] EWCA Crim 580, [2008] 2 Cr App R (S) 87 (497) D pleaded guilty to two counts of perverting the course of justice where he had twice given false details when stopped by the police for motoring matters. As a result of one deception, D's brother was convicted in his absence by a magistrates' court. Consecutive sentences of nine months on each count were upheld on appeal. Sentences of four months were appropriate for both offenders following guilty pleas in *Henderson* [2011] EWCA Crim 1152, [2012] 1 Cr App R (S) 18 (95), where a lorry driver asked a friend to 'take' his penalty points for speeding so that he could avoid disqualification; the friend did so, but the deception later came to light. In *Ratcliffe* [2016] EWCA Crim 27, [2016] 1 Cr App R (S) 65 (488) an enforcement camera had detected D's vehicle driving through a red light. D set about a persistent deception that the registration plates had been stolen, but admitted what had happened at a second plea and case management hearing. The Court of Appeal said that a sentence starting point of 19 months was very severe, but not manifestly excessive.

Concealing Evidence or Creating False Evidence I n *Matthews* [2009] EWCA Crim 1450, [2010] 1 Cr App R (S) 59 (373) a sentence of three years was upheld on the owner of a scrap metal company who attempted to conceal the cause of a fatal accident by arranging for the removal of evidence and telling employees to give a false account of what had happened.

In *Jones* [2008] EWCA Crim 348, [2008] 2 Cr App R (S) 75 (420), one of the worst cases, 12 years' imprisonment was upheld on D who attempted to intimidate a female witness in a murder case involving five defendants. The woman was subject to threats, and was promised a substantial sum of money if she would retract her evidence. The Court of Appeal said that the case was of 'utmost seriousness', and that D had set about derailing the trial

for what had been a professional killing. There was no guilty plea and no mitigation. In *Asan* [2019] EWCA Crim 896 D intimidated the victim and her family over a two-year period. When investigated, D had used some relatively sophisticated techniques to convince police that hackers were planting incriminating evidence, including sending himself email material purporting to come from the alleged hackers and sending delayed texts at a time when he was distant from the handset to create an alibi. After pleading guilty, D was sentenced to a 12-month suspended sentence on the three indictments he faced, including six months' suspended imprisonment for the perverting counts. The Court of Appeal found all elements of the sentence to be unduly lenient and substituted a total of three years' imprisonment on the original matters and 18 months consecutive for the perverting counts. A sentence of three years' imprisonment was upheld in *Livesley* [2012] EWCA Crim 1100, [2013] 1 Cr App R (S) 27 (138), where D had submitted false references to the court in advance of being sentenced for a benefit fraud, with the effect that his sentence was suspended. *Livesley* was considered in *A-G's Ref (No. 123 of 2015) (Javed)* [2016] EWCA Crim 28, [2016] 1 Cr App R (S) 64 (479). D had submitted false references in mitigation, to the effect that he was a 'changed man'. The Court of Appeal said that where false references had been given, immediate custodial sentences of some length should be expected.

False Allegations of Crime Sentences in such cases may vary greatly depending on the consequences of the false allegations. If not charged as perverting the course of justice such conduct may be charged as stalking, which is covered by the *Intimidatory Offences* guideline (see Supplement, SG27-1, and sentencing cases at B2.199 and B2.207).

In *Beale* [2019] EWCA Crim 665, [2019] 2 Cr App R 19 (194) a sentence of ten years' imprisonment after a trial was not considered manifestly excessive for D who made repeated false allegations of rape against multiple victims, and perjured herself while giving evidence in the trials that followed. One falsely accused man was convicted of rape and served nearly three years in prison, another was on bail for two years before the case was dropped, and a third fled the country to avoid prosecution for an offence he knew he had not committed. She was convicted of three counts of perjury and four counts of perverting the course of justice. The Court of Appeal commented that the harm to the victims was incalculable and that the sentence, though stern, was not excessive. By contrast, in *Day* [2009] EWCA Crim 2445, [2010] 2 Cr App R (S) 12 (73), D made a single false complaint of rape and the man who had been accused was detained for ten hours before release. The Court said that a false accusation of rape was not just a wrong against the man concerned but was also an attack on the criminal justice system, diverting scarce and expensive police resources. Although D had been 'far from well' when she made the complaint, the sentence of two years after a trial in this case was entirely appropriate and could have been longer.

In *Weiner* [2011] EWCA Crim 1249, [2012] 1 Cr App R (S) 6 (24) a sentence of ten years' imprisonment after a trial was appropriate for D who had planted indecent photographs of children on V's computer and then made an anonymous call to the police accusing V of possessing child pornography. V had been arrested, suffered unwelcome publicity, had been dismissed from his employment and forced to move house before the truth was uncovered. The Court of Appeal said that the degree of culpability and planning was worse than in many other false allegations of crime. In *Afford* [2013] EWCA Crim 633, [2014] 1 Cr App R (S) 2 (4) D told the police that he had been attacked by four Asian men, one of whom had slashed his face and said 'no white person should walk here'. D later admitted that he had made up the story, and had cut his own face. The Court of Appeal reduced a sentence of 12 months to one of eight months, commenting that the case was at the lower end of the scale, but the aggravating feature had been the risk of heightened racial tension in the area.

Helping an Offender In *Sidhu* [2019] EWCA Crim 1034, [2019] 2 Cr App R (S) 34 (247) the Court of Appeal offered guidance on sentencing where D assists an offender to evade justice by disposing of a weapon or by helping the offender to leave the scene or flee the country. Following a fatal stabbing committed by one TA (see B2.83), KF and RS were each charged with perverting the course of justice: RS because he took, and apparently successfully disposed of, the knife used by TA; and KF because, having seen what TA had just done, he drove him away from the scene, enabling him to flee the country soon after. Each was sentenced to a term of two and a half years' imprisonment, expressed to include an element of deterrence. On appeal, RS's sentence was reduced to 22 months on the basis that his knowledge, role and culpability had not been as great as KF, but in all other respects the sentences were upheld, the Court of Appeal noting that a sentence reflecting, to some degree, a deterrent element as a warning to others may simply reflect the need to reduce crime. See also B14.53.

Bribery Cases charged as bribery, such as *Patel* [2012] EWCA Crim 1243, [2013] 1 Cr App R (S) 48 (269) (see B15.13), may also be relevant. In that case D, a court clerk, had solicited bribes from motoring offenders due to appear before the magistrates' court. The appropriate starting point after trial would have been six years' imprisonment, reduced to four years for his plea. See also *Barnard* [2019] EWCA Crim 1206 at B14.53. Note that bribery offences are included in the Sentencing Council definitive guideline, *Fraud, Bribery and Money Laundering Offences* (see Supplement, SG26-7).

Substantive Offences, Conspiracy and Attempt

Indictments tended to allege attempts or conspiracies to pervert the course of justice, because it was thought that actual perversion of the course of justice would often be difficult to prove. Indeed, this form of indictment was used even in some cases where the course of justice had been wholly frustrated (*Britton* [1973] RTR 502). It is now recognised, however, that an act which is intended to have this effect, and is capable of succeeding, may constitute the substantive offence, and should be charged accordingly. The Criminal Attempts Act 1981 does not generally have any application in such cases (unless perhaps D has failed to perform the act he intended) and references to 'attempts' to pervert the course of justice are accordingly misleading (*Rowell* [1978] 1 All ER 665; *Machin* [1980] 3 All ER 151; *Williams* (1991) 92 Cr App R 158). On the other hand, the common law principles governing jurisdiction over conspiracy or attempt abroad to commit offences in England and Wales (see A5.62 and A5.82) apply equally to acts abroad that are intended to pervert the course of justice in England and Wales (*USA v Dempsey* [2018] EWHC 1724 (Admin), [2018] 4 WLR 110).

Where there appears to have been a conspiracy, there may sometimes be certain advantages in charging the statutory offence under the CLA 1977, s. 1;

Acts which May Amount to Perverting the Course of Justice

There is no closed list of acts which may give rise to an offence of perverting the course of justice and neither authority nor principle supports confining such acts to those giving rise to some other independent criminal wrongdoing (*Kenny* [2013] EWCA Crim 1, [2013] QB 896 at [35]: see also B14.47). Nor need the offence be concerned with a particular trial or investigation. Acts tending and intended to obstruct, divert or disrupt criminal proceedings or police investigations generally may suffice (*USA v Dempsey* [2018] EWHC 1724 (Admin), [2018] 4 WLR 110). However, some acts that do amount to this offence may (depending on the circumstances) more appropriately be charged as contempt of court, offences under the CLA 1967, s. 4 or s. 5, witness intimidation, perjury, subornation of perjury or wasting police time. In *Kenny* the Court of Appeal warned that any expansion of the offence should take place only incrementally and with caution, reflecting both principles of common law reasoning and the requirements of the ECHR, Article 7.

Perverting the course of justice requires some positive act; mere failure to point out an error, as where the wrong person is prosecuted, cannot suffice (*Headley* [1995] Crim LR 737), nor is the offence committed by a motorist who fails to report an accident until any alcohol in his body has been eliminated (*Clark* [2003] EWCA Crim 99, [2003] 2 Cr App R 23 (363)). In *Sookoo* [2002] EWCA Crim 800, the Court of Appeal warned that charges of perverting the course of justice should not without good reason be added to cases in which a suspect has merely told lies when questioned. In many cases such charges 'only serve to complicate the sentencing process'. See to similar effect *Hamshaw* [2003] EWCA Crim 2435.

Deliberately Assisting a Person to Evade Arrest *Thomas* [1979] QB 326 is an example of such a case. In contrast to the offence under the CLA 1967, s. 4 (see B14.58), it does not matter whether the offence was 'a relevant offence', and it is not strictly necessary to prove the guilt of the person assisted. Cf. *Spinks* [1982] 1 All ER 587.

Destroying, Falsifying or Concealing Potential Evidence This form of the offence can occur whether or not legal proceedings have already been instigated (*Vreones* [1891] 1 QB 360; *Murray* [1982] 2 All ER 225; *Firetto* [1991] Crim LR 208; *Rafique* [1993] 4 All ER 1; *Kiffin* [1994] Crim LR 449). It was said in *Selvage* [1982] QB 372 that, if proceedings have not been instigated at that time, an investigation must have been in progress; but this would fail to deal with measures designed to prevent an offence ever being discovered, and cannot be reconciled with *Vreones* or *T* [2011] EWCA Crim 729. In *Selvage,* D attempted to falsify details on X's driving licence, so as to obscure the fact he had endorsements; but this was with a view to protecting him if he should ever commit, and be charged with, a future road traffic offence. Insofar as the dicta in that case seem to refer to evidence in actual but undiscovered crimes or potential civil disputes, it is submitted that they are *obiter* and wrong. See also *Sharpe* [1938] 1 All ER 48 and *Sinha* [1995] Crim LR 68. An offence of perverting the course of justice may be committed by falsifying or procuring false evidence, even where D's motive was to procure what D believed would be a true and fair verdict; although this is ultimately a matter for the consideration of the jury *(A-G's Ref (No. 1 of 2002)* [2002] EWCA Crim 2392, [2003] Crim LR 410).

False Allegations Making false allegations against another person, intending that the person should be prosecuted or knowing that this is a possibility may be an offence (*Rowell* [1978] 1 All ER 665). Where false stories merely waste police time, a charge under the CLA 1967, s. 5(2), may be more appropriate (see B14.82) but even where no alleged offender is named, there may be a risk that an innocent person could be arrested and/or prosecuted, and this may accordingly amount to perverting the course of justice (*Cotter* [2002] EWCA Crim 1033, [2003] QB 951). It makes no difference if, unknown to D, the subject of these allegations has died, because the vice of the offence lies in the intent (*Brown* [2004] EWCA Crim 744). Where it can be proved that D acted with intent to pervert the course of justice (e.g., by falsely reporting a crime), it is not necessary to prove whether D intended to pervert the course of criminal or civil justice (*Iaquaniello* [2005] EWCA Crim 2029).

g) OFFENCES AKIN TO PERVERSION OF THE COURSE OF JUSTICE. THE CIVIL PROCEDURE RULES RULE 32.14(1)

Certain other kinds of conduct might be regarded as amounting to the perversion of public justice, but are more commonly charged under other heads. Thus, by the Civil Procedure Rules, r. 32.14(1):

Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth. Sanctions, including sentences of imprisonment, may accordingly be imposed in contempt

proceedings if a person makes a false statement in a document verified by a statement of truth, where the statement has, or if persisted in would be likely to have, interfered with the course of justice, and that person does not have an honest belief in the truth of the statement and knew of its likelihood to interfere with the course of justice (*AXA Insurance UK plc v Rossiter* [2013] EWHC 3805 (QB); *Aziz v Ali* [2014] EWHC 4003 (QB)).

h) PERJURY ACT 2011

Perjury.

(1)If any person lawfully sworn as a witness or as an interpreter in a judicial proceeding wilfully makes a statement material in that proceeding, which he knows to be false or does not believe to be true, he shall be guilty of perjury, and shall, on conviction thereof on indictment, be liable to penal servitude for a term not exceeding seven years, or to imprisonment . . . for a term not exceeding two years, or to a fine or to both such penal servitude or imprisonment and fine.

(2)The expression "judicial proceeding" includes a proceeding before any court, tribunal, or person having by law power to hear, receive, and examine evidence on oath.

(3)Where a statement made for the purposes of a judicial proceeding is not made before the tribunal itself, but is made on oath before a person authorised by law to administer an oath to the person who makes the statement, and to record or authenticate the statement, it shall, for the purposes of this section, be treated as having been made in a judicial proceeding.

(4-5)--

(6)The question whether a statement on which perjury is assigned was material is a question of law to be determined by the court of trial.

Aiders, abettors, suborners, &c.

(1)Every person who aids, abets, counsels, procures, or suborns another person to commit an offence against this Act shall be liable to be proceeded against, indicted, tried and punished as if he were a principal offender.

(2)Every person who incites . . . another person to commit an offence against this Act shall be guilty of a misdemeanour, and, on conviction thereof on indictment, shall be liable to imprisonment, or to a fine, or to both such imprisonment and fine.

i) ABUSE OF PROCESS

The court has power to punish as contempt any misuse of the court's process. Thus the forging or altering of court documents and other deceits of like kind are punishable as serious contempts[1]. Similarly, deceiving the

court or the court's officers by deliberately suppressing a fact, or giving false information, may be a punishable contempt[2].

Certain acts of a lesser nature may also constitute an abuse of process as, for instance, initiating or carrying on proceedings which are wanting in bona fides or which are frivolous, vexatious, or oppressive[3]. In such cases the court has extensive alternative powers to prevent an abuse of its process by striking out or staying proceedings or by making a civil restraint order[4]. Where the court, by exercising its statutory powers, its powers under rules of court or its inherent jurisdiction, can give an adequate remedy, it will not in general punish the abuse as a contempt of court. On the other hand, where an irregularity or misuse of process amounts to an interference with the course of justice, extending its influence beyond the parties to the action, it may be punished as a contempt[5].

1 2 Hawk PC (8th Edn) c 22 s 43; *Dag v Penkevell* (1605) Moore KB 770 pl 1064, sub nom *Doydige v Penkvell* Noy 101 (altering or adding name on a warrant); *Hale v Castleman* (1746) 1 Wm Bl 2; *Fawcett v Garford* (1789) cited in Oswald on Contempt (3rd Edn) pp 62, 82 (forging signature of counsel); *Finnerty v Smith* (1835) 1 Bing NC 649 (altering date of jurat on affidavit); *Re Jacobs* (1874) Times, 13 June (erasing court order from back of summons; see also 18 Sol Jo 642). Cf *Re Taylor* [1912] AC 347, PC (altering names of witnesses in subpoena, without any intent to defraud, held not to be a punishable contempt). As to the defacing etc of documents see the Theft Act 1968 s 20; and **CRIMINAL LAW** VOL 25 (2020) PARA 387.

2 See eg *Linwood v Andrews and Moore* (1888) 58 LT 612 (barrister wilfully deceiving the court in the conduct of a case, by procuring a party to make an affidavit he knew to be untrue and reading the affidavit to the court); *Apted v Apted and Bliss* [1930] P 246 (false statement when asking for the exercise of the court's discretion in divorce; and see also the cases cited at 263); *R v Weisz, ex p Hector Macdonald Ltd* [1951] 2 KB 611, [1951] 2 All ER 408, DC (fictitious indorsement of writ).

3 Examples of cases where the court formerly punished such abuse of process as a contempt are cited in Oswald on Contempt (3rd Edn) p 61. See particularly *Milward v Welden* (1565) Toth 101, where a litigant was fined and committed for prolixity of pleading. See also *Whitlock v Marriot* (1686) 1 Dick 16; *Bishop v Willis* (1749) 5 Beav 83n.

4 See CPR 3.4 (power to strike out statement of case); CPR 3.11 (power of the court to make civil restraint directions), CPR PD 3C—*Civil Restraint Orders* para 1; and **CIVIL PROCEDURE** VOL 12 (2020) PARAS 509, 516. The court may also strike out pleadings or stay proceedings under its inherent jurisdiction: see *Reichel v Magrath* (1889) 14 App Cas 665, HL; and **CIVIL PROCEDURE** VOL 12 (2020) PARA 1033. As to vexatious litigants see also the Senior Courts Act 1981 s 42; and **CIVIL PROCEDURE** VOL 11 (2020) PARA 495, **CIVIL PROCEDURE** VOL 12 (2020) PARA 520.

The court also has power to set aside a subpoena which has been issued in abuse of the process of the court: see eg *Farulli v Farulli and Pederzoli* [1917] P 28.

5 *Apted v Apted and Bliss* [1930] P 246 at 262–265 per Lord Merrivale P. Thus, for example, the following acts of abuse of process have been held to be punishable as contempts: fraudulent collusion between plaintiff and defendant to defeat the rights of a third party (*M'Gregor v Barrett* (1848) 6 CB 262); unlawfully depriving a court of jurisdiction over an action (*Re Septimus Parsonage & Co* [1901] 2 Ch 424); obtaining payment of money as the consideration for the withdrawal of a motion to commit for contempt (*R v Newton* (1903) 67 JP 453).

j) MISCONDUCT IN PUBLIC OFFICE

The ingredients of the common-law offence of misconduct in public office were identified in *A-G's Ref (No. 3 of 2003)* [2004] EWCA Crim 868, [2005] 1 QB 73 and restated by the Court of Appeal in *Chapman* [2015] EWCA Crim 539, [2015] QB 883 in the following terms: the offence is committed where '(i) a public officer acting as such, (ii) wilfully neglects to perform his duty and/or wilfully misconducts himself, (iii) to such a degree as to amount to an abuse of the public's trust in the office holder, and (iv) does so without reasonable excuse or justification' (at [17]). A detailed analysis can be found in Law Commission Consultation Paper No. 229, *Reforming Misconduct in Public Office,* paras. 2.3 *et seq.*

Not every improper act or omission in public office will suffice to constitute the offence. The misconduct must be such as to harm the public interest and be deserving of condemnation and punishment. The unauthorised disclosure of confidential information to the media may raise particularly difficult questions concerning this public interest, and require very careful directions to a jury. In *Chapman* [2015] EWCA Crim 539, [2015] QB 883, Lord Thomas CJ said (at [33]–[34]):

Those employed by the state in public office will generally be in breach of the duty owed by them to their employers or commanding officers by providing unauthorised information to the press. However, information is sometimes provided by such persons in breach of that duty where the provider of that information may benefit the public interest rather than harm it. The provision of the information may well in such a case be an abuse of

trust by the office holder to his employer or commanding officer, even if the disclosure of the information may be in the public interest. It may therefore result in disciplinary action and dismissal of the officer holder. That is because the abuse of the trust reposed in the office holder by the employer/commanding officer in such a case is viewed through the prism of the relationship between the office holder and his employer or commanding officer. That is not the prism through which a jury should approach the issue of the abuse of the public's trust in an office holder Blackstone …

k) BRIBERY ACT 2010

General bribery offences

1 Offences of bribing another person

(1)A person ("P") is guilty of an offence if either of the following cases applies.

(2)Case 1 is where—

(a)P offers, promises or gives a financial or other advantage to another person, and

(b)P intends the advantage—

(i)to induce a person to perform improperly a relevant function or activity, or

(ii)to reward a person for the improper performance of such a function or activity.

(3)Case 2 is where—

(a)P offers, promises or gives a financial or other advantage to another person, and

(b)P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

(4)In case 1 it does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.

(5)In cases 1 and 2 it does not matter whether the advantage is offered, promised or given by P directly or through a third party.

2 Offences relating to being bribed

(1)A person ("R") is guilty of an offence if any of the following cases applies.

(2)Case 3 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).

(3)Case 4 is where—

(a)R requests, agrees to receive or accepts a financial or other advantage, and

(b)the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

(4)Case 5 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

(5)Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly—

(a)by R, or

(b)by another person at R's request or with R's assent or acquiescence.

(6)In cases 3 to 6 it does not matter—

(a)whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party,

(b)whether the advantage is (or is to be) for the benefit of R or another person.

(7)In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

(8)In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper.

3 Function or activity to which bribe relates

(1)For the purposes of this Act a function or activity is a relevant function or activity if—

(a)it falls within subsection (2), and

(b)meets one or more of conditions A to C.

(2)The following functions and activities fall within this subsection—

(a)any function of a public nature,

(b)any activity connected with a business,

(c)any activity performed in the course of a person's employment,

(d)any activity performed by or on behalf of a body of persons (whether corporate or unincorporate).

(3)Condition A is that a person performing the function or activity is expected to perform it in good faith.

(4)Condition B is that a person performing the function or activity is expected to perform it impartially.

(5)Condition C is that a person performing the function or activity is in a position of trust by virtue of performing it.

(6)A function or activity is a relevant function or activity even if it—

(a)has no connection with the United Kingdom, and

(b)is performed in a country or territory outside the United Kingdom.

(7)In this section "business" includes trade or profession.

4 Improper performance to which bribe relates

(1)For the purposes of this Act a relevant function or activity—

(a)is performed improperly if it is performed in breach of a relevant expectation, and

(b)is to be treated as being performed improperly if there is a failure to perform the function or activity and that failure is itself a breach of a relevant expectation.

(2)In subsection (1) "relevant expectation"—

(a)in relation to a function or activity which meets condition A or B, means the expectation mentioned in the condition concerned, and

(b)in relation to a function or activity which meets condition C, means any expectation as to the manner in which, or the reasons for which, the function or activity will be performed that arises from the position of trust mentioned in that condition.

(3)Anything that a person does (or omits to do) arising from or in connection with that person's past performance of a relevant function or activity is to be treated for the purposes of this Act as being done (or omitted) by that person in the performance of that function or activity.

5 Expectation test

(1)For the purposes of sections 3 and 4, the test of what is expected is a test of what a reasonable person in the United Kingdom would expect in relation to the performance of the type of function or activity concerned.

(2)In deciding what such a person would expect in relation to the performance of a function or activity where the performance is not subject to the law of any part of the United Kingdom, any local custom or practice is to be disregarded unless it is permitted or required by the written law applicable to the country or territory concerned.

(3)In subsection (2) "written law" means law contained in—

(a)any written constitution, or provision made by or under legislation, applicable to the country or territory concerned, or

(b)any judicial decision which is so applicable and is evidenced in published written sources.

l) PUBLIC BODIES CORRUPT PRACTICES ACT 1889

1 Corruption in office a misdemeanor.

(1)Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanor.

(2)Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which, such public body as aforesaid is concerned, shall be guilty of a misdemeanor.

m) FORGERY AND COUNTERFEITING ACT 1981

PART I

Offences

1 The offence of forgery.

A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

2 The offence of copying a false instrument.

It is an offence for a person to make a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

3 The offence of using a false instrument.

It is an offence for a person to use an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

4 The offence of using a copy of a false instrument.

It is an offence for a person to use a copy of an instrument which is, and which he knows or believes to be, a false instrument, with the intention of inducing somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

5 Offences relating to money orders, share certificates, passports, etc.

(1) It is an offence for a person to have in his custody or under his control an instrument to which this section applies which is, and which he knows or believes to be, false, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be, false.

(3) It is an offence for a person to make or to have in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an instrument to which this section applies, with the intention that he or another shall make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice.

(4) It is an offence for a person to make or to have in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.

(5) The instruments to which this section applies are—

[ ]

(e) share certificates;

[ ]

(6) In subsection (5) (e) above "share certificate" means an instrument entitling or evidencing the title of a person to a share or interest—

(a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state; or

(b) in any stock, fund or debt of a body (whether corporate or unincorporated) established in the United Kingdom or elsewhere.

Interpretation of Part I

8 Meaning of "instrument".

(1)Subject to subsection (2) below, in this Part of this Act "instrument" means—

(a)any document, whether of a formal or informal character;

9 Meaning of "false" and "making".

(1) An instrument is false for the purposes of this Part of this Act—

(a)if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form; or

(b)if it purports to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form; or

(c)if it purports to have been made in the terms in which it is made by a person who did not in fact make it in those terms; or

(d)if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms; or

(e)if it purports to have been altered in any respect by a person who did not in fact alter it in that respect; or

(f)if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect; or

(g)if it purports to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or

(h)if it purports to have been made or altered by an existing person but he did not in fact exist.

(2)A person is to be treated for the purposes of this Part of this Act as making a false instrument if he alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

10 Meaning of "prejudice" and "induce".

(1)Subject to subsections (2) and (4) below, for the purposes of this Part of this Act an act or omission intended to be induced is to a person's prejudice if, and only if, it is one which, if it occurs—

(a)will result—

(i)in his temporary or permanent loss of property; or

(b)will result in somebody being given an opportunity—

(i)to earn remuneration or greater remuneration from him; or

(ii)to gain a financial advantage from him otherwise than by way of remuneration; or

(c)will be the result of his having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with his performance of any duty.

(2)An act which a person has an enforceable duty to do and an omission to do an act which a person is not entitled to do shall be disregarded for the purposes of this Part of this Act.

(3)In this Part of this Act references to inducing somebody to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, include references to inducing a machine to respond to the instrument or copy as if it were a genuine instrument or, as the case may be, a copy of a genuine one.

(4)Where subsection (3) above applies, the act or omission intended to be induced by the machine responding to the instrument or copy shall be treated as an act or omission to a person's prejudice.

(5)In this section "loss" includes not getting what one might get as well as parting with what one has.

n) POSTAL SERVICES ACT 2000

84 Interfering with the mail: general.

(1)A person commits an offence if, without reasonable excuse, he—

(a)intentionally delays or opens a postal packet in the course of its transmission by post, or

(b)intentionally opens a mail-bag.

(2)Subsections (2) to (5) of section 83 apply to subsection (1) above as they apply to subsection (1) of that section.

(3)A person commits an offence if, intending to act to a person's detriment and without reasonable excuse, he opens a postal packet which he knows or reasonably suspects has been incorrectly delivered to him.

(4)Subsections (2) and (3) of section 83 (so far as they relate to the opening of postal packets) apply to subsection (3) above as they apply to subsection (1) of that section.

(5)A person who commits an offence under subsection (1) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

o) PROTECTION FROM HARASSMENT ACT 1997

1 Prohibition of harassment.

(1)A person must not pursue a course of conduct—
(a)which amounts to harassment of another, and
(b)which he knows or ought to know amounts to harassment of the other.
[F1(1A)A person must not pursue a course of conduct —
(a)which involves harassment of two or more persons, and
(b)which he knows or ought to know involves harassment of those persons, and
(c)by which he intends to persuade any person (whether or not one of those mentioned above)—
(i)not to do something that he is entitled or required to do, or
(ii)to do something that he is not under any obligation to do.]
(2)For the purposes of this section [F2or section 2A(2)(c)], the person whose course of conduct is in question ought to know that it amounts to [F3 or involves] harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.
(3)Subsection (1) [F4or (1A)] does not apply to a course of conduct if the person who pursued it shows—
(a)that it was pursued for the purpose of preventing or detecting crime,
(b)that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
(c)that in the particular circumstances the pursuit of the course of conduct was reasonable

2 Offence of harassment.

(1)A person who pursues a course of conduct in breach of **[**F1section 1(1) or (1A)**]** is guilty of an offence.
(2)A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

p) SERIOUS CRIME ACT 2015

s 45. Offence of participating in activities of organised crime group

(1)A person who participates in the criminal activities of an organised crime group commits an offence.

(2)For this purpose, a person participates in the criminal activities of an organised crime group if the person takes part in any activities that the person knows or reasonably suspects—

(a)are criminal activities of an organised crime group, or

(b)will help an organised crime group to carry on criminal activities.

(3)"Criminal activities" are activities within subsection (4) or (5) that are carried on with a view to obtaining (directly or indirectly) any gain or benefit.

(6)"Organised crime group" means a group that—

(a)has as its purpose, or as one of its purposes, the carrying on of criminal activities, and

(b)consists of three or more persons who act, or agree to act, together to further that purpose.

(7)For a person to be guilty of an offence under this section it is not necessary—

(a)for the person to know any of the persons who are members of the organised crime group,

(b)for all of the acts or omissions comprising participation in the group's criminal activities to take place in England and Wales (so long as at least one of them does), or

(c)for the gain or benefit referred to in subsection (3) to be financial in nature.

(8)-

(9)A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 5 years.

q) CONCEALING OFFENCES CRIMINAL LAW ACT 1967 S 5

Criminal Law Act 1967, s. 5

(1) Where a person has committed a relevant offence, any other person who, knowing or believing that the offence or some other relevant offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be liable on conviction on indictment to imprisonment for not more than two years...

(5) The compounding of an offence other than treason shall not be an offence otherwise than under this section.

The term 'relevant offence' is defined by s. 4(1A)

r) SOLICITOR'S ACT 1974 SCHEDULE 1 PART II PARA 9 (3)

(3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

s) SOLICITOR'S ACT 1974 SCHEDULE 1 PART II PARA 6 (6)

(3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

t) LAND REGISTRATION ACT 1925 S.115 AND S. 117

115 Penalty for suppression of deeds and evidence.

If in the course of any proceedings before the registrar or the court in pursuance of this Act any person concerned in such proceedings as principal or agent, with intent to conceal the title or claim of any person, or to substantiate a false claim, suppresses, attempts to suppress, or is privy to the suppression of, any document or fact, the person so suppressing, attempting to suppress, or privy to suppression, shall be guilty of a misdemeanor.

117 Punishment of misdemeanors.

A person guilty of a misdemeanor under this Act shall—

(a)on conviction on indictment, be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds;

(b)on summary conviction, be Liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

u) LAND REGISTRATION ACT 2002. S. 123 (SUPPRESSION OF INFORMATION)

Land Registration Act 2002 s124 Improper alteration of the registers

(1) A person commits an offence if he dishonestly induces another—

(a) to change the register of title or cautions register, or (b) to authorise the making of such a change.

(2) A person commits an offence if he intentionally or recklessly makes an unauthorised change in the register of title or cautions register.

v) LAND REGISTRATION ACT 2002. S. 124 (IMPROPER ALTERATION)

Land Registration Act 2002 S123 Suppression of information

(1) A person commits an offence if in the course of proceedings relating to registration under this Act he suppresses information with the intention of—

(a) concealing a person's right or claim, or

(b) substantiating a false claim.

w) LAW OF PROPERTY ACT 1925 S. 183 (FRAUDULENT CONCEALMENT)

A seller or borrower or his solicitor or agent who conceals any instrument material to the title or any incumbrance from the buyer or lender or who identifies any pedigree on which the title does or may depend ,in order to induce the buyer or lender to accept the title with intent to defraud is guilty of an offence punishable by a fine or by imprisonment for a term not exceeding two years or both [A prosecution for an offence under these provisions can only be commenced with leave of the Attorney General . He is also liable to an action for damages but civil liability under this section is also dependent on proof of intent to defraud District Bank Ltd v Luigi Grill Ltd [1943 Ch 78

x) LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989 REPLACING THE STATUTE OF FRAUDS 1677

Contracts for sale etc. of land to be made by signed writing.

(1)A contract for the sale or other disposition of an interest in land can only be made in writing and only by incorporating all the terms which the parties have expressly agreed in one document or, where contracts are exchanged, in each.

(2)The terms may be incorporated in a document either by being set out in it or by reference to some other document.

(3)The document incorporating the terms or, where contracts are exchanged, one of the documents incorporating them (but not necessarily the same one) must be signed by or on behalf of each party to the contract

y) LEGAL SERVICES ACT 2007 S. 12 AND S. 14

12 Meaning of "reserved legal activity" and "legal activity"

In this Act "reserved legal activity" means—
(c) reserved instrument activities;

Reserved instrument activities" means—

(a)preparing any instrument of transfer or charge for the purposes of the Land Registration Act 2002 (c. 9);
(b)making an application or lodging a document for registration under that Act;

(c)preparing any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to court proceedings in England and Wales.

14 Offence to carry on a reserved legal activity if not entitled

(1) It is an offence for a person to carry on an activity ("the relevant activity") which is a reserved legal activity unless that person is entitled to carry on the relevant activity.
(2) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused did not know, and could not reasonably have been expected to know, that the offence was being committed.
(3) A person who is guilty of an offence under subsection (1) is liable—
(a)on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
(b)on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

3) BANKING LAW

a) THE RELATIONSHIP AND CONTRACT BETWEEN THE BANK AND THE CUSTOMER

From Paget's Law of Banking Part II Chapter 4:

PART II BANKS AND CUSTOMERS

Chapter 4 The Relationship and Contract of Banker and Customer

1 BANKERS AND CUSTOMERS

The law of banking proper is the law of the relationship between a banker and its customer. Basically the relationship is that of mandator (the customer) and mandatory (the bank), but it is nonetheless a relationship which embraces mutual duties and obligations. It is a relationship peculiar to banking, giving rise to a contract between the two parties. The relationship is enjoyed by no one but a bank with reference to a customer and thus it is necessary to know what in law is a customer. Nowhere is it specifically defined, not even in the Bills of Exchange Act 1882, which to a large extent is based on the relationship, nor in the Cheques Act 1957, which in its entirety is dependent upon it.

(b) The debtor-creditor relationship

[4.7]

The classic description of the contract constituted by the relation of banker and customer is that of Atkin LJ in *Joachimson v Swiss Bank Corpn*[1]:

"The bank undertakes to receive money and to collect bills for its customer's account. The proceeds so received are not to be held in trust for the customer, but the bank borrows the proceeds and undertakes to repay them. The promise to repay is to repay at the branch of the bank where the account is kept, and during banking hours[3]. It includes a promise to repay any part of the amount due against the written order of the customer addressed to the bank at the branch, and as such written orders may be outstanding in the ordinary course of business for two or three days, it is a term of the contract that the bank will not cease to do business with the customer except upon reasonable notice[4]. The customer on his part undertakes to exercise reasonable care in executing his written orders so as not to mislead the bank or to facilitate forgery[5]. I think it is necessarily a term of such a contract that the bank is not liable to pay the customer the full amount of his balance until he demands payment from the bank at the branch at which the current account is kept."

The duties of care owed by a bank to its customer include the following (cross-references are to chapters where the duties are considered more fully):

(1) A bank owes a duty of care in giving information (about a product or otherwise) to a customer (Chapter 29 or providing a reference to a third party about a customer (Chapter 3).

(2) A bank owes a duty of care in giving financial and investment advice, and in explaining the effect of security documents (Chapter 29).

(3) Where providing a service, a bank owes a statutory duty to exercise reasonable care and skill that is implied by section 13 of the Supply of Goods and Services Act 1982.

(4) A paying bank owes a duty of care (the '*Quincecare duty*') to protect the customer from the fraud of agents such as directors and partners in issuing cheques and other payment orders (Chapter 23), arising out of the general duty of care owed when executing the customer's orders[1].

(5) Various statutory protections in favour of the paying and the collecting bank depend on the absence of negligence or gross negligence. (Chapters 26 and 27).

(iv) A general duty of good faith?

[4.32]

The (non-banking) decision of *Yam Seng Pte Ltd v International Trade Corporation Ltd* has given oxygen to the idea that there may be a general duty of good faith, or generalised principle of good faith from which many specific duties can be derived, in a banking contract .

(e) Statutory duties

[4.34]

The statutory duties owed by a bank are now legion and the reader is referred to specific sections of this work, in particular Chapter 3 in relation to data protection and the Data Protection Act 1998; Chapter 9 in relation to consumer credit legislation; Chapter 24 in relation to payments and the Payment Services Regulations 2017; Chapters 29 and 30 in relation to financial, insurance and mortgage advice and mis-selling and the FCA Rules applicable to it.

b) UNAUTHORISED PAYMENTS

From Paget's Law of Banking Part IV Payments :

Chapter 23 Unauthorised Payments

The primary duty of a paying bank is to honour its customer's instructions and make payments as instructed in accordance with its mandate. That duty is a fundamental aspect of the contractual relationship between the bank and its customer. The bank's payment obligation only arises if the instructions comply with the mandate and if there are sufficient funds in the customer's account (or if the bank has agreed to provide the customer with sufficient overdraft facilities) to meet the payment instruction. If so, in the vast majority of cases the bank must comply with its customer's instructions. But there are a number of exceptional circumstances in which the bank's contractual duty to the customer conflicts with other duties owed by the bank, and in those cases the law must strike a balance between the conflicting obligations (see para 23.13 below).

Where the bank makes a payment which is unauthorised by its customer, it has no right to debit the customer's account, and it must instead look to the recipient of the payment for repayment under restitutionary principles: claims by the paying bank against third parties in those circumstances are considered in Chapter 28.

This chapter concerns claims against the paying bank by its customers in which the bank's authority to make the payment is in dispute. Such claims tend to arise in three principal situations:

(i) where the payment is contrary to the mandate;

(ii) where the payment is against a forged or unauthorised signature;

(iii) where the paying bank is on notice of a potential fraud in relation to the payment.

1 PAYMENT CONTRARY TO THE MANDATE

(a) *Effect of the mandate*

The mandate embodies an agreement which authorises the bank to pay if it is given instructions in accordance with its terms. Typically a mandate will list the individuals who have authority to sign cheques or other payment orders and will specify how many individuals (if more than one) must sign any given order. Some mandates require orders to be signed by A and by any one of B, C and D. Others require the signature of any one of E, F and G and any one of H, I and J. There are many other possible combinations.

A bank which acts in accordance with its mandate is duly authorised, and will be entitled to debit the customer's account in the amount of the payment. But it does not follow that a bank which acts contrary to the mandate is bound to be unauthorised. The bank will not be liable to the customer if the customer did in fact authorise the payment (not withstanding that the payment instruction did not comply with the mandate). This is illustrated by *London Intercontinental Trust Ltd v Barclays Bank Ltd*[1], where the defendant bank had honoured a cheque bearing a sole signature in breach of a mandate requiring two signatures. However, the sole signatory had actual authority from the claimant's board of directors to order the transfer of the sum in question. Accordingly, the claim was dismissed. The bank's failure to observe the discrepancy between the cheque and the mandate simply had the consequence that the bank exposed itself to the risk that the signatory had not in fact been authorised[2].

Similarly, no claim for breach of mandate will lie against the paying bank if the payment has been subsequently ratified by the customer[3]. For ratification to apply, the customer must have (a) expressly or impliedly manifested an unequivocal intention to adopt the unauthorised payment[4], and (b) done so in full knowledge that the payment was without authority. Ratification will only be implied where one cannot logically analyse the act without imputing the approval of the customer[5].

[1] *[1980] 1 Lloyd's Rep 241*; followed in *Symons (HJ) & Co v Barclays Bank* [2003] EWHC 1249 (Comm) at [22]–[24], [65]. See also *In re Cleadon Trust Ltd* [1939] Ch 286, *CA*.

[2] *[1980] 1 Lloyd's Rep 241* at 249.

[3] For a detailed description of the principles of ratification, see *Bowstead and Reynolds on Agency* (21st edn, 2017), paras 2-047 to 2-099.

[4] *Swotbooks.com v Royal Bank of Scotland plc* [2011] EWHC 2025 (QB).

[5] *Harrisons & Crossfield Ltd v London and North-Western Railway Company* [1917] 2 KB 755 at 758, per Rowlatt J.

c) CURRENT ACCOUNTS

The current account, despite the many mutual duties engrafted on the relation of banker and customer since 1848, the date of *Foley v Hill*[1], is still the basic and predominant element in dealings between the parties. The essence of the current account is that it provides a running bank account, usually with the opportunity for an overdraft (enabling it to operate both in credit or as a flexible loan facility in debit), with a variety of methods for deposit into and payment out of the account (such as electronic payment, cash machine withdrawal, and by cheque). Current accounts are primarily designed for easy and frequent access to funds, rather than the earning of credit interest. (In contrast, the earning of credit interest, along with security, is the main purpose of a deposit account, which will often have restrictions on the means, notice period and frequency of permitted withdrawals.)[2]

(a) Passing of title to monies paid into a current account

[5.3]

The current account may be either a credit account or an overdrawn account. A credit account is made up of monies paid in by the customer, the proceeds of instruments collected for him or her, and interest and dividends paid direct to the banker and from various other sources, less any monies properly paid out. Monies from different sources, once they have found their way into the current account, are treated as one entire debt .

Property in money generally passes with possession . When monies are paid into an account at a branch they are reckoned as belonging to the bank and, if paid in cash, title does not pass from the customer paying them in to the bank until they are received on the bank side of the counter and accepted by the cashier or teller who gives a receipt for them. So long as the monies are on the customer's side of the counter, the property does not pass and the bank is not in any way responsible for them[3]. Similarly once money is paid over the counter to the presenter of a cheque, for instance, the money ceases to be the property of the bank and becomes that of the presenter.

(b) Relation of debtor and creditor under a current account

[5.4]

It was settled in *Foley v Hill*[4] that the purely debtor and creditor relationship excludes any element or suggestion of trusteeship on the part of or fiduciary relation with the banker with regard to a current account. The implied agreement between banker and customer as stated by Atkin LJ in *Joachimson's* case is that all money coming to the banker's hands for the credit of a current account is to be taken as lent to the banker . In *Hirschhorn v Evans (Barclays Bank Ltd garnishees*)[3] Mackinnon LJ said that there is never any question of property in the credit balance of a bank account; that the relation between the parties is simply that of debtor and creditor. Thus, as summarised by Staughton J in *Libyan Arab Foreign Bank v Bankers Trust Co*[4]:

"It is elementary, or hornbook law to use an American expression, that the customer does not own any money in a bank. He has a personal and not a real right. Students are taught at an early stage of their studies in the law that it is incorrect to speak of "all my money in the bank"."

(c) Need for demand by the current account customer

[5.5]

It was held in *Joachimson v Swiss Bank Corpn* that the banker is not liable to repay the customer until demand is made. Until then, there is no presently due debt owed by the banker to his customer. The ground of implication is not stated, but it is apparent from the judgment that the term was regarded as necessary to give the contract business efficacy and/or so obvious it goes without saying[1]. If the doctrine of an immediately recoverable right were accepted, consequences would follow which the parties cannot reasonably intend and which would render banking a non-business proposition. One consequence would be to entitle the banker to tender the amount of a credit balance to the customer at any moment, and at any place, and then dishonour outstanding cheques to the detriment of the customer, a position inconsistent with the customer's established right not to have his account summarily closed. The earlier cases which suggested that demand was not necessary[2] were explained in *Joachimson* on the ground that the point was not directly in issue or necessarily involved in their decisions.

It was further stated in *Joachimson* that in most cases where the question will in practice arise, the issue of a writ by the customer is a sufficient demand without any previous request for payment.

d) INTERFERENCE BY THIRD PARTIES

Part VIII Paget's Law of Banking deals with interference by third parties. The part covers interference by the three methods of interference

- Garnishee Order
- Freezing Orders
- Economic Sanctions

The use of the Law Society's so called vesting order as a freezing order is conspicuous by its absence from this part.

e) SOLICITOR ACCOUNTS

The following extract is from Paget's Law of Banking Part II Chapter 6 Special Customers 8 Solicitors . Again , there is no mention made of the use of the Law Society's vesting order as a freezing order.

8 SOLICITORS

(c) Statutory protection for the banker

By s 85 of the Solicitors Act 1974:

"Where a solicitor keeps an account with a bank or a building society in pursuance of rules under section 32—

(a) the bank or society shall not incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to the account, which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it …"

It was rightly observed of a predecessor to this provision (s 8(1) of the Solicitors Act 1933) that its effect is that a bank is not to be deemed to have any knowledge of the rights of third parties which it has not in fact[1], ie the words 'any knowledge of any right' refer to actual knowledge.

In considering the ambit of the statutory protection conferred by s 85, reference must be made to its legislative history. Section 8(1) of the Solicitors Act 1933 contained the following proviso:

"Provided that nothing in this sub-section shall relieve a bank from any liability or obligation under which it would be apart from this Act."

This proviso was seemingly in conflict with the body of the section. On the one hand, banks were to be unaffected by constructive notice of the rights of third parties. On the other, banks were not to be relieved from any obligation under which they would have been but for the Act. Thus the proviso appeared to leave open the possibility of a constructive trusteeship which the main body of the section appeared intended to eliminate.

Section 8(1) of the Solicitors Act 1933 was re-enacted in s 85(1) of the Solicitors Act 1957. In 1974, legislation was in preparation to consolidate the Solicitors Act 1957, the Solicitors Act 1965, and certain other enactments relating to solicitors. The passage of this consolidating legislation was delayed by a general election, and instead certain amendments were made to the existing law by the Solicitors (Amendment) Act 1974, which was subsequently repealed by the Solicitors Act 1974. By the Solicitors (Amendment) Act 1974, s 19(4) and Sch 2, para 32, there was substituted for s 85 of the Solicitors Act 1957 what is now s 85 of the Solicitors Act 1974. In other words, the statutory protection was modified by the *deletion* of the proviso. The manifest purpose of this deletion was to eliminate the possibility of banks being held liable as constructive trustees on the basis of anything less than actual knowledge

Notwithstanding this legislative history, in *Lipkin Gorman v Karpnale Ltd*[2], at first instance Alliott J held that the intention of the legislature in relation to s 85 of the 1974 Act was not to give banks a special advantage in maintaining and operating a client's account, but to ensure that there was no special disadvantage to bankers in so doing. It is submitted that this is not correct. If it were, the section would serve no purpose. The true position is that banks have been placed in a special position with respect to solicitors' client accounts, and for good reason: in the absence of such protection, the completion of conveyancing and other transactions might be delayed pending the making of enquiries. It was for this reason that in 1974 the Law Society advocated the deletion of the former proviso.

It should be noted that by s 85(b), a bank with which a solicitor keeps an account in pursuance of rules under s 32 may not have any recourse or right against money standing to the credit of the account in respect of any liability of the solicitor to the bank, other than a liability in connection with the account.

g) LIMITATION OF ACTIONS – CREDIT BALANCES

The following is from Paget's Law of Banking Part II Chapter 9

9 LIMITATION OF ACTIONS

(a) *C*
Credit balances in favour of customer

Atkin LJ pointed out in *Joachimson v Swiss Bank Corpn* [1921] 3 KB 110 at 130 and 131. that:

"The practical bearing of this decision [as to the necessity for a demand] is on the question of the Statute of Limitations … The result of this decision will be that for the future bankers may have to face legal claims for balances on accounts that have remained dormant for more than six years."

By s 5 of the Limitation Act 1980, an action founded on simple contract may not be brought after the expiration of six years from the date on which the cause of action accrued. In an action for the recovery of a debt, time does not begin to run until there is a debt presently due and payable. It follows from *Joachimson v Swiss Bank Corpn* that in the case of a credit balance on current account, time does not begin to run against the customer until demand for payment has been made. Accordingly, as Atkin LJ pointed out in that case, a claimant may be able to claim after an account has been inactive for many years2.

As an unauthorised debit by the bank is simply a nullity and of no effect on the balance owing by the bank to the customer, it may follow that the customer can challenge such a debit more than six years after it is made, since the customer is at that time entitled to demand the repayment of the true balance owing See *National Bank of Commerce v National Westminster Bank plc [1990] 2 Lloyd's Rep 514* and the discussion below at para 22.79.

4) EUROPEAN CONVENTION ON HUMAN RIGHTS AND FREEDOMS AND UNITED CONVENTION

a) ART. 1 PROTOCOL 1 PROTECTION OF PROPERTY

PART II THE FIRST PROTOCOL

ARTICLE 1 Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

b) ART. 3 PROHIBITION OF TORTURE

ARTICLE 3 Prohibition of torture
No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

ARTICLE 4 Prohibition of slavery and forced labour
1 No one shall be held in slavery or servitude.

2 No one shall be required to perform forced or compulsory labour.

3 For the purpose of this Article the term "forced or compulsory labour" shall not include:

(a)any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c)any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations.

c) ART. 8 RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

ARTICLE 8 Right to respect for private and family life

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

d) ART.14 PROHIBITION OF DISCRIMINATION

ARTICLE 14 Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

e) HUMAN RIGHTS ACT 1988 S.6.ACTS OF PUBLIC AUTHORITY

Acts of public authorities.

(1)It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(2)Subsection (1) does not apply to an act if—

(a)as the result of one or more provisions of primary legislation, the authority could not have acted differently; or

(b)in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.

(3)In this section "public authority" includes—

(a)a court or tribunal, and

(b)any person certain of whose functions are functions of a public nature,

but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(4)

(5)In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

(6)"An act" includes a failure to act but does not include a failure to—

(a)introduce in, or lay before, Parliament a proposal for legislation; or

(b)make any primary legislation or remedial order.

f) THE BASIC PRINCIPLES ON THE ROLE OF LAWYERS ADOPED BY THE EIGHTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS, HAVANA, CUBA 27 AUGUST -7 SEPTEMBER 1990

The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

Access to lawyers and legal services

1. All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.
2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status

.

Guarantees for the functioning of lawyers

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.
17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.
18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.
19. No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.
20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative author

5) THE LAW ON VOID ORDERS

a) THE VOID ORDER BY SHIRLEY LEWALD.

THE VOID ORDER

by

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The interesting and important nature of a 'void' order of a Court is not fully understood and appreciated in England and this article is written to assist the understanding of a 'void' order and to assist legal professionals in any concerns they may have in submitting to a Court that its order is void, if indeed it is void.

In *Anlaby v. Praetorius* (1888) 20 Q.B.D. 764 at 769 Fry L.J. stated on the issue of void proceedings that:

> "A plaintiff has no right to obtain any judgement at all".

A void order does not have to be obeyed because, for example, in *Crane v Director of Public Prosecutions* [1921] it was stated that if an order is void *ab initio* (from the beginning) then there is no real order of the Court.

In *Fry v. Moore* (1889), 23 Q.B.D. 395 Lindley, L.J. said of void and irregular proceedings that it may be difficult to draw the exact line between nullity and irregularity. If a procedure is irregular it can be waived by the defendant but if it is null it cannot be waived and all that is done afterwards is void; in general, one can easily see on which side of the line the particular case falls.

A void order results from a 'fundamental defect' in proceedings (Upjohn LJ in *Re Pritchard (deceased)* [1963] 1 Ch 502 and Lord Denning in *Firman v Ellis* [1978] 3 WLR 1) or from a 'without jurisdiction'/*ultra vires* act of a public body or judicial office holder (Lord Denning in *Pearlman v Governors of Harrow School* [1978] 3 WLR 736).

A 'fundamental defect' includes a failure to serve process where service of process is required (Lord Greene in *Craig v Kanssen Craig v Kanssen* [1943] 1 KB 256); or where service of proceedings never came to the notice of the defendant at all (e.g. he was abroad and was unaware of the service of proceedings); or where there is a fundamental defect in the issuing of proceedings so that in effect the proceedings have never started; or where proceedings appear to be duly issued but fail to comply

with a statutory requirement (Upjohn LJ in *Re Pritchard* [1963]). Failure to comply with a statutory requirement includes rules made pursuant to a statute (*Smurthwaite v Hannay* [1894] A.C. 494).

A 'without jurisdiction'/*ultra vires* act is any act which a Court did not have power to do (Lord Denning in *Firman v Ellis* [1978]).

In *Peacock v Bell and Kendal* [1667] 85 E.R. 81, pp.87:88 it was held that nothing shall be intended to be out of the jurisdiction of a Superior Court, but that which specially appears to be so; and nothing shall be intended to be within the jurisdiction of an Inferior Court but that which is so expressly stated.

It is important to note therefore that in the case of orders of Courts with unlimited jurisdiction, an order can never be void unless the 'unlimited jurisdiction' is 'limited' in situations where it is expressly shown to be so. In the case of orders of the Courts of unlimited jurisdiction where the jurisdiction is not expressly shown to be limited, the orders are either irregular or regular. If irregular, it can be set aside by the Court that made it upon application to that Court and a person affected by the irregular order has a right –ex debito justitiae – to have it set aside. If it is regular, it can only be set aside by an appellate Court upon appeal if there is one to which an appeal lies (Lord Diplock in *Isaacs v Robertson* (1984) 43 W.I.R. PC at 128-130). However, where the Court's unlimited jurisdiction is shown to be limited (for example: a restriction on the Court's power by an Act of Parliament or Civil or Criminal Procedure Rule) (*Peacock v Bell and Kendal* [1667]; Halsbury's Laws of England) then the doctrine of nullity will apply.

Similarly, if the higher Court's order is founded on a lower Court's void act or invalid claim then the higher Court's decision will also be void (Lord Denning in*MacFoy v United Africa Co. Ltd.* [1961] 3 All ER).

The main differences between a 'void' and 'voidable' order or claim is that:

(i) a 'void' order or claim has no legal effect *ab initio* (from the beginning/outset) and therefore does not need to be appealed, although for convenience it may sometimes be necessary to have it set aside (Lord Denning in *MacFoy v United Africa Co. Ltd.* [1961] and *Firman v Ellis* [1978]) whereas a 'voidable' order or claim has legal effect unless and until it is set aside. Therefore, while a void order or claim does not have to be obeyed and can be ignored and its nullity can be relied on as a defence when necessary (*Wandsworth London Borough Council v. Winder* [1985] A.C. 461), a voidable order or claim has to be obeyed and cannot be ignored unless and until it is set aside; and

(ii) a 'void' order can be set aside by the Court which made the order because the Court has inherent jurisdiction to set aside its own void order (Lord Greene in *Craig v Kanssen* [1943]) whereas a 'voidable' order can only be set aside by appeal to an appellate Court.

A person affected by both a void or voidable order has the right – ex debito justitiae – to have the order set aside (which means that the Court does not have discretion to refuse to set aside the order or to go into the merits of the case) (Lord Greene in *Craig v Kanssen* [1943]).

The procedure for setting aside a void order is by application to the Court which made the void order, although it can also be set aside by appeal although an appeal is not necessary (Lord Greene in *Craig v Kanssen* [1943]) or it can quashed or declared invalid by Judicial Review (where available) and where damages may also be claimed.

Although an appeal is not necessary to set aside a void order, if permission to appeal is requested and if out of time the Court should grant permission because time does not run because the order is void and the person affected by it has the right to have it set aside (Lord Greene in *Craig v Kanssen* [1943].

A void order is incurably void and all proceedings based on the invalid claim or void act are also void. Even a decision of the higher Courts (High Court, Court of Appeal and Supreme Court) will be void if the decision is founded on an invalid claim or void act, because something cannot be founded on nothing (Lord Denning in*MacFoy v United Africa Co. Ltd.* [1961]).

A void order is void even if it results in a failure of natural justice or injustice to an innocent third party (Lord Denning in *Wiseman v Wiseman* [1953] 1 All ER 601).

It is never too late to raise the issue of nullity and a person can ignore the void order or claim and raise it as a defence when necessary (*Wandsworth London Borough Council v. Winder* [1985] A.C. 461; *Smurthwaite v Hannay* [1894] A.C. 494; Upjohn LJ in *Re Pritchard (deceased)* [1963]; Lord Denning in *MacFoy v United Africa Co. Ltd.* [1961]).

In *R v. Clarke and McDaid* [2008] UKHL8 the House of Lords confirmed that there is no valid trial if the bill/Indictment has not been signed by an appropriate officer of the Court because Parliament intended that the Indictment be signed by a proper officer of the Court.

In *Bellinger v Bellinger* [2003] UKHL 21 the House of Lords confirmed that a void act is void from the outset and no Court – not even the House of Lords (now the Supreme

Court) - has jurisdiction to give legal effect to a void act no matter how unreasonable that may seem, because doing so would mean reforming the law which no Court has power to do because such power rests only with Parliament. The duty of the Court is to interpret and apply the law not reform or create it.

It is important to note that if a claim is invalid the plaintiff can start all over again unless he is prevented from doing so due to limitation as in the case of *Re Pritchard (deceased)* [1963] or estoppel – for example; where the Claimant applied to the Court for permission to correct/amend the claim and permission was refused; or the plaintiff or his solicitor had been negligent in ignoring a material fact when filing the invalid claim so that the plaintiff is estopped by the principle that he should not be allowed a 'second bite at the cherry'; and in the case of a criminal trial if there has been a fundamental technical defect the Court can order a new trial (*venire de novo* - may you cause to come anew).

Chronology of some case laws relating to void orders:

1888:

In ***Anlaby v. Praetorius*** (1888) Fry L.J. stated on the issue of void proceedings that:

(i) a plaintiff has no right to obtain any judgement at all.

1889:

In ***Fry v. Moore*** (1889) Lindley, L.J. said that:

(i) it might be difficult to draw the exact line between nullity and irregularity. If an order is irregular it can be waived by the defendant but if it is null then it renders all that is done afterwards void. In general one can easily see on which side of the line the particular case falls.

1921:

Crane v Director of Public Prosecutions [1921]:

(i) if an order is void *ab initio* (from the beginning) then there is no real order of the Court.

1943:

In ***Craig v Kanssen*** [1943] Lord Greene confirmed that:

(i) an order which can properly be described as a nullity is something which the person affected by it is entitled ex debito justitiae to have set aside;

(ii) so far as procedure is concerned the Court in its 'inherent jurisdiction' can set aside its own order and an appeal from the order is not necessary; and

(iii) if permission to appeal is requested and if out of time the Court should grant permission because time does not run because the point is that the order is invalid and the person affected by it has the right to have it set aside.

1953:

In ***Wiseman v Wiseman*** [1953] 1 All ER 601 – Lord Denning confirmed that:

(i) The issue of natural justice does not arise in a void order because it is void whether it causes a failure of natural justice or not;

(ii) a claimant or defendant should not be allowed to abuse the process of Court by failing to comply with a statutory procedure and yet keep the benefit of it and for that reason also a void act is void even if it affects the rights of an innocent third party.

1961:

In ***MacFoy v United Africa Co Ltd.*** [1961] Lord Denning confirmed that:

(i) a void order is automatically void without more ado;

(ii) a void order does not have to be set aside by a Court to render it void although for convenience it may sometimes be necessary to have the Court set the void order aside;

(iii) a void order is incurably void and all proceedings based on the void order/invalid claim are also void.

1963:

In ***Re Pritchard*** *(deceased)* [1963] Upjohn LJ confirmed that:

(i) a fundamental defect in proceedings will make the whole proceedings a nullity;

(ii) a nullity cannot be waived;

(iii) it is never too late to raise the issue of nullity; and

(iv) a person affected by a void order has the right – ex debito justitiae – to have it set aside.

1978:

In ***Firman v Ellis*** [1978] Lord Denning confirmed that:

(i) a void act is void *ab initio*

1979:

Lord Denning, in his book 'The Discipline of Law' – Butterworths 1979 – page 77, states:

(i) although a void order has no legal effect from the outset it may sometimes be necessary to have it set aside because as Lord Radcliffe once said: "It bears no brand of invalidity on its forehead".

1985:

Wandsworth London Borough Council v. Winder [1985] A.C. 461:

(i) a person may ignore a void claim and rely on it as a defence when necessary.

2003:

In ***Bellinger v Bellinger*** [2003] the House of Lords confirmed that:

(i) a void act is void from the outset; and

(ii) no Court – not even the House of Lords (now the Supreme Court) has jurisdiction to give legal effect to a void act no matter how unreasonable that may seem because doing so would mean reforming the laws which no Court has power to do because such power rests only with Parliament. The duty of the Court is to interpret and apply the law not reform it.

Conclusion based on the case laws referred to above:

(i) an application to have a void order set aside can be made to the Court which made the void order;

(ii) the setting aside must be done under the Court's inherent power to set aside its own void order;

(iii) the Court does not have discretion to refuse the application because the person affected by the void order has a right to have it set aside;

(iv) an appeal is not necessary because the order is already void;

(v) if permission to appeal is sought and if sought out of time permission should be given because as the order is void time does not run; it is never too late to raise the issue of nullity; and the person affected by the void order has a right to have it set aside;

(vi) a void order can be quashed or declared unlawful by Judicial Review where available and where damages may also be claimed;

(vii) the whole proceedings is void if it was based on a void act;

(viii) a void order does not have to be obeyed because it has no legal effect from the beginning;

(ix) as it is never too late to raise the issue of nullity a person can ignore the void order and rely on nullity as a defence when necessary;

(x) a void order is void even if the nullity is unjust or injustice occurs to an innocent third party;

(xi) an order of a Court of unlimited jurisdiction is only void if it can be expressly be shown that the unlimited jurisdiction is limited in that situation, or the order is founded on an invalid claim or void act;

(xii) no Court (not even the Supreme Court) has jurisdiction to give effect to a void act and the duty of the Court is only to interpret and apply the law not to reform or create it as such power rests only with Parliament.

Updated: 6 February 2011

b) US AUTHORITIES ON VOID JUDGMENTS

The Law of Void Judgments and Decisions
Supreme Court Decisions on Void Orders

A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. ***Earle v. McVeigh*, 91 US 503, 23 L Ed 398.** See also Restatements, Judgments ' **4(b). *Prather vLoyd*, 86 Idaho 45, 382 P2d 910.**

The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. ***Hanson v Denckla*, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.**

A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. **30A Am Jur Judgments " 44, 45.**

It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. ***Renaud v. Abbott*, 116 US 277, 29 L Ed 629, 6 S Ct 1194.**

Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. ***Earle v McVeigh*, 91 US 503, 23 L Ed 398.**

No Opportunity to Be Heard

A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. ***Sabariego v Maverick*, 124 US 261, 31 L Ed 430, 8 S Ct 461**, and is not entitled to respect in any other tribunal.

"A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include **Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; *Ex parte Rowland* (1882) 104 U.S. 604, 26 L.Ed. 861:**

"A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its wants of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists." ***People v. Greene*, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448]**. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1Freeman on Judgments, 120c.) An illegal order is forever void.

Orders Exceeding Jurisdiction

An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. **(See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 I ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608.**

"If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." **(1 Freeman on Judgments, 120c.)** "A void judgment is no judgment at all and is without legal effect." **(*Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974)** "a court must vacate any judgment entered in excess of its jurisdiction." **(*Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972).**

A void judgment does not create any binding obligation. Federal decisions addressing void state court judgments include ***Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370.** Federal judges issued orders permanently barring Stich from filing any papers in federal courts. After Judges Robert Jones and Edward Jellen corruptly seized and started to liquidate Stich's assets, Judge Jones issued an unconstitutional order barring Stich from filing any objection to the seizure and liquidation.

Void Orders Can Be Attacked At Any Time

An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. **(See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 I ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 US 90, 37 Sct 343, 61 L ed 608. *U.S. v. Holtzman*, 762 F.2d 720 (9th Cir. 1985)** ("Portion of judgment directing defendant not to import vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722.

6) THE LAW ON TORTURE

a) UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, 1984 ('UNCAT')

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

b) COMBATING TORTURE AND OTHER ILL-TREATMENT. A MANUAL FOR ACTION. AMNESTY INTERNATIONAL WHAT CONDUCT IS PROHIBITED?

Key points:

• Acts of torture and other cruel, inhuman or degrading treatment or punishment are absolutely prohibited; there can be no justification whatsoever for any such act.

• Attempts to commit torture, as well as acts of complicity or participation in torture, aiding and assisting another state to perpetrate torture, or for public officials to instigate, consent to, or acquiesce in torture, are also prohibited.

• In assessing the responsibility of states for violations of the prohibition, it is often unnecessary to draw distinctions between torture and other forms of cruel, inhuman and degrading treatment or punishment. They form a group of prohibited behaviour. Distinctions may become more important in relation to individual criminal responsibility.

• While torture and other ill-treatment are all equally prohibited, some provisions of the Convention against Torture and the Inter-American Convention against Torture refer only to torture; for example, the mandatory exercise of universal jurisdiction.

• If necessary, torture may be distinguished from other ill-treatment by the existence of intent to inflict suffering for a purpose or by the severity of the suffering caused. Pain or suffering inflicted accidentally cannot constitute torture.

Article 5 of the Universal Declaration states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". This wording has served as a model for provisions in other human rights instruments. The prohibition of torture and other ill-treatment and the terms "cruel", "inhuman", "degrading", "treatment" and "punishment" have been incorporated into other international instruments such as Artiicle 7(1) of the ICCPR (which replicates Article 5 of the Universal Declaration word for word) and in all the main regional human rights instruments.
The wording in Article 5 of the Universal Declaration has also been replicated in many national constitutions.

Often there is no need to distinguish between torture and other cruel, inhuman or degrading treatment or punishment, since the entire class of behaviour – torture and other forms of ill-treatment – is absolutely prohibited. Therefore, it is often not necessary to assign specific meanings to the various elements of the phrase "torture or other cruel, inhuman or degrading treatment or punishment" or to establish

overlapping categories among the elements in order to make a finding of a violation for the purpose of establishing state responsibility or individual civil responsibility.

The Committee against Torture has stated that in practice, the definitional threshold between other ill-treatment and torture is often not clear. Similarly, the Human Rights Committee has noted that it does not consider "it necessary to draw up a list of prohibited acts or to establish sharp distinctions between the different kinds of punishment or treatment; the distinctions depend on the nature, purpose and severity of the treatment applied. However, certain distinguishing criteria will be needed if torture is to be defined as a crime under national law, as required by the Convention against Torture, and certain obligations are only applicable expressly to torture; for example, the exercise of universal jurisdiction (see Chapter 6.4.1). Thus, in certain circumstances it may be necessary to distinguish torture from other forms of ill-treatment

2.3.1 DEFINITIONS OF TORTURE

The definition of torture under Article 1 of the Convention against Torture has five key elements:

a) Torture involves the infliction of pain or suffering, whether physical or mental;

b) The pain or suffering is severe;

c) It is inflicted intentionally. Pain or suffering inflicted accidentally cannot constitute torture;

d) It is inflicted for a purpose such as those listed in Article 1, or for any reason based on discrimination of any kind; and

e) It is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The definition of the crime of torture under domestic law, if it does not directly incorporate the actual language of the Convention definition, must at least cover all the conduct covered by this definition.

a) Infliction of physical or mental pain or suffering

The term "act" in Article 1 is interpreted broadly to include omissions, at least intentional ones. The Committee against Torture affirmed that "States bear international responsibility for the acts and omissions of their officials and others". This means that conduct such as intentionally depriving someone of, for example, food, water or medical attention, would fall within the definition of torture under the Convention if the other elements of the definition are present.

Depictions of torture in popular culture frequently emphasize the infliction of physical pain, and this is indeed a feature of much torture in the real world. The inclusion of the notion of mental suffering is however extremely important as it acknowledges that mental suffering no less intense than physical pain can be inflicted upon individuals with or without actual physical contact. Thus certain acts which may cause severe mental suffering such as sleep deprivation, sensory deprivation or manipulation techniques can amount to torture.

Instructively, the definition from the Inter-American Convention against Torture does not include a requirement of "severe pain or suffering," and expressly includes "the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish". (See section 2.3.1.iii below.)

The Committee against Torture has also affirmed that the understanding of psychological torture should not be limited to acts that cause "prolonged mental harm", but constitute a wider category of acts, which cause severe mental suffering. In other words, psychological torture not only encompasses acts that are inflicted in a systematic or prolonged way but can encompass a single act which causes severe mental suffering; for example, a single mock execution or a threat of violence (see section 2.5.5).

b) Severity of pain or suffering

Under all definitions (except for that found in the Inter-American Convention against Torture), to constitute torture the suffering or pain inflicted must be severe.

In practice the Committee against Torture has not applied a strict general approach to assessing the severity of suffering caused but will look at the circumstances of each case to see whether all of the definitional elements in Article 1 are present. In its jurisprudence when finding that an act of torture has occurred, the Committee against Torture will generally make reference to the wording in Article 1 as a whole and state that the treatment can be characterized as severe pain or suffering intentionally inflicted by public officials for a specific purpose.

c) Intentionally inflicted

Article 1 simply requires that the perpetrator intended to inflict pain or suffering. It would not be in keeping with that definition to require proof that the torturer knew that the conduct inflicted or would be likely to inflict pain or suffering which was severe; it should be sufficient that the torturer intended the conduct which inflicted on the victim severe pain or suffering. Acts performed accidentally cannot amount to torture.

d) For a purpose

Article 1 makes it clear that torture is the intentional infliction of severe suffering for a purpose (or because of discrimination) and lists examples of purposes for which torture is often inflicted. However, the inclusion of the term "such as" makes it clear that this list is not exhaustive and is only indicative of the common purposes or "incentives" for torture.

This enables the Committee against Torture to have a flexible approach and does not tie it down to previous decisions, thus ensuring that the Convention against

Torture is a "living instrument"; that is, able to respond to new challenges and possibly widen the scope of protection. The express reference, following the list of purposes in Article 1, to torture committed "for any reason based on discrimination of any kind", recognized that discrimination could pave the way for torture. As stated by the Committee against Torture, "discrimination of any kind can create a climate in which torture and ill-treatment of the 'other' group subjected to intolerance and discriminatory treatment can more easily be accepted". (See section 2.4.)

e) By or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

The last element of Article 1 states that torture is "committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity". The Convention against Torture imposes obligations on states, not individuals. Therefore, the purpose of this requirement is to establish the scope of state responsibility under this Convention.45 (Note that similar language is also used in respect of other forms of ill-treatment not amounting to torture under Article 16 of the Convention – see section 2.3.2.)

This requirement is broadly worded and over the years the nature and scope of states parties' obligations under the Convention against Torture have been clarified. In its General Comment 2, the Committee against Torture has confirmed that states

parties "bear international responsibility for the acts and omissions of their officials and other actors, including agents, private contractors, and others acting in official capacity or acting on behalf of the state, in conjunction with the state, under its direction or control, or otherwise under colour of law."

The terms "consent" and "acquiescence" in Articles 1 and 16 have been interpreted by the Committee against Torture as ensuring that states will also be responsible for acts committed by non-state actors (private individuals) where they have failed to take steps to adequately protect against such acts and prevent them. The Committee against Torture has noted that where "State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts"

c) WHAT IS OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT AND PUNISHMENT?

2.3.2 WHAT IS OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT AND PUNISHMENT?

Key points:
• Other forms of cruel, inhuman and degrading treatment and punishment are absolutely prohibited under international law, just like torture.
• The prohibition of other forms of ill-treatment is interpreted broadly and aims to secure respect for the physical and mental integrity of all individuals at all times.
• Unlike torture, most treaties do not include a definition of other forms of ill treatment.
However, judgments of national and international courts and expert bodies suggest some general characteristics, and specific examples, of other cruel, inhuman and degrading treatment and punishment.

i. Amnesty International's position: What distinguishes "torture" from "cruel, inhuman or degrading treatment or punishment"?

Unlike torture, "cruel, inhuman or degrading treatment or punishment" has not been defined in international treaties. This phrase originated in the Universal Declaration and was incorporated unchanged into the ICCPR (adopted in 1966), the Declaration against Torture (adopted in 1975) and the Convention against Torture (adopted in 1984).79 In approaching the question of what distinguishes such ill treatment from torture, Amnesty International is guided by the principle that "[t]he term 'cruel, inhuman or degrading treatment or punishment' should be interpreted so as to extend the widest possible protection against abuses".

The extent of the protection against and prohibition of other ill-treatment can be gleaned from the Geneva Conventions which bind all states and which, in the extreme emergency that is armed conflict, prohibit "in all circumstances" ill-treatment of detainees including "all acts of violence or threats thereof… insults and public curiosity" and any "physical or moral coercion… against protected persons, in particular to obtain information from them or from third parties."83 It cannot reasonably be argued that the protection against ill-treatment which states must provide in peacetime under human rights law is weaker, or narrower, than such protection during war.

Amnesty International considers, in line with much of the jurisprudence of international and regional human rights monitoring bodies, that cruel, inhuman or degrading treatment or punishment may generally be described negatively in relation to torture, that is, as ill treatment which "do[es] not amount to torture" because it lacks one or more of the key elements of the torture definition described above. An

act, or instance, of ill-treatment would therefore constitute cruel, inhuman or degrading treatment or punishment rather than torture either if it lacks the required intention, the required purpose (or discrimination), or if the pain or suffering it causes is not considered to be "severe".

For example, harsh conditions of detention within the prison system, such as those resulting from overcrowding and poor sanitation, may cause prisoners severe pain or suffering, but in the absence of evidence that they are imposed for a purpose (or discrimination) of the type contained in the definition of torture, would constitute cruel, inhuman or degrading treatment. O punished by means of prolonged solitary confinement or similar harsh conditions causing severe pain or suffering, the "purposive" requirement is fulfilled and the treatment would amount to torture.
When officials use abusive interrogation methods, which by their nature are intentional and have the purpose of "obtaining… information or a confession", thus fulfilling the other elements of the torture definition, but these methods occasion pain or suffering – be it mental or physical – that is not judged to be severe, they would constitute cruel, inhuman or degrading treatment but would not amount to torture.

Amnesty International is concerned that alternatives to this position, that is, pinning the distinction between torture and other ill-treatment solely on one element, could result in weakening the protection against torture and other ill-treatment. The reason lies in the logic of such a claim: since intention, severe pain or suffering and purpose are all required for a finding of torture, then if ill-treatment is considered identical to torture in all but one requirement, this significantly narrows the scope of what constitutes ill-treatment. For example, if purpose is deemed to be the one and only distinguishing element, then the other two requirements – in this case intention and severity – still need to be met, which would necessarily mean that acts cannot qualify as ill-treatment unless they cause severe pain or suffering. In turn this would mean that acts inflicting "milder" pain are no longer violations of the prohibition of cruel, inhuman or degrading treatment or punishment at all.

Similarly, claiming that only the severity element distinguishes between torture and other ill-treatment would imply that only deliberate acts (acts that have intention and purpose) can be considered cruel, inhuman or degrading, thereby excluding a variety of forms of official negligence from the prohibition.

In many instances it is not necessary to make a distinction between torture and cruel, inhuman or degrading treatment or punishment – all of these acts are absolutely prohibited under international law. However, when a distinction is made, Amnesty International's position is that an act may constitute cruel, inhuman or degrading treatment or punishment rather than torture because it lacks any one or more of the following key elements: intention, purpose (or discrimination), or severe pain or suffering.n the other hand, where an individual prisoner

Article 16(1) of the Convention against Torture requires states parties to:
"undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

An act that is cruel, inhuman or degrading would "not amount to torture as defined in article 1" of the Convention against Torture when it was not intentionally done for a relevant purpose or the pain or suffering is not considered to be severe. Torture and other ill-treatment under the Convention do share one common definitional element; to fall within the scope of the treaty they must be committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The Committee against Torture and other bodies have deliberately not developed exhaustive lists of acts that would be classified as either torture or other forms of illtreatment to ensure that the Convention against Torture and other instruments remain"living instruments ", enabling them to respond to changing practices (and perhaps, as the European Court suggested, progress towards wider protection).

iii. The approach of the European Court
The European Court more frequently (although not always) draws distinctions between degrading treatment and inhuman treatment.

a) Degrading treatment or punishment

As stated above, in order for an act to be regarded as degrading treatment in breach of Article 3 of the European Convention, the person must have "undergone – either in the eyes of others or in his own eyes – humiliation or debasement attaining a minimum level of severity". As described earlier (see section 2.3.1.v), the Court will take into consideration a range of relative factors and all the circumstances of the case to determine whether the suffering was sufficiently severe as to fall within the scope of Article 3.

According to the rulings of the European Court and the opinions of the now defunct Commission, "treatment or punishment of an individual may be said to be degrading if it grossly humiliates him before others or drives him to act against his will or conscience". The Court has also deemed treatment to be degrading when "it was such as to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them".

When considering whether a punishment or treatment is degrading within the meaning of Article 3, the Court will consider whether the intent was to humiliate or debase the person concerned. However, a lack of any intent to humiliate or debase the victim will not necessarily rule out a finding of a violation.105 The Court has found a violation of the European Convention even where there was no evidence that there had been any intent to degrade the victim.

b) Inhuman treatment or punishment

Treatment has been held by the European Court to be inhuman for reasons including that it was premeditated, was applied for hours at a time, and caused either actual bodily injury or intense physical and mental suffering.

However, the Court does not always distinguish between inhuman and degrading acts and has in some circumstances described treatment as both inhuman and degrading. For example, in the case of *I.I. v Bulgaria* the Court held that the poor conditions of detention "amounted to inhuman and degrading treatment contrary to Article 3 of the Convention".1

c) Inhuman or degrading treatment and "lawful sanctions"

The European Court has occasionally stated that "in order for a punishment or treatment associated with it to be 'inhuman' or 'degrading', the suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment". In other words, the Court applies something similar to the "lawful sanctions" exclusion provision in the definition of torture in Article 1 of the Convention against Torture. For example, the very fact of being imprisoned may in itself cause suffering or humiliation, even if the conditions and treatment in prison comply fully with international standards such as the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), and this generally will not violate Article 3 of the European Convention

d) THE LINK BETWEEN DISCRIMINATION AND TORTURE

2.4 THE LINK BETWEEN DISCRIMINATION AND TORTURE

Key points:

• Under Article 1 of the Convention against Torture the intentional infliction of severe pain or suffering for any reason based on discrimination of any kind is recognized as an act of torture.
• Discrimination against certain groups increases their risk of torture or other ill treatment and violence in the community and family.
• Discrimination can reinforce impunity by denying certain groups equal protection under law.
• States are under an obligation to prevent and protect all persons from discrimination and ensure that their laws are applied in practice equally to all persons.

Discrimination systematically denies certain individuals or groups their full human rights because of who they are or what they believe.110 It is an attack on the fundamental principle underlying the Universal Declaration, namely that human rights are universal and apply to all without distinction.

Discrimination paves the way for torture by allowing the victim to be seen not as human but as an object, who can therefore be treated inhumanely. Under Article 1 of the Convention against Torture, the intentional infliction of severe pain or suffering "for any reason based on discrimination of any kind" is recognized as an act of orture. All major international and regional human rights instruments contain provisions prohibiting discrimination on a number of grounds.

The victim's identity or status may also affect the nature and consequences of their ill treatment.

For example, as noted in Chapter 2.5.2, children held in custody with adults are particularly vulnerable to rape and sexual violence. Victims from marginalized groups may have limited access to legal remedies.

Discrimination also reinforces or other opinion, national or social origin, gender, sexual orientation, transgender identity, mental or other disability, health status, economic or indigenous status, reason for which the person is detained, including persons accused of political offences or terrorist acts, asylum-seekers, refugees or others under international protection, or any other status or adverse distinction."

The Committee against Torture has also stated that "the principle of non-discrimination is a basic and general principle in the protection of human rights and fundamental to the interpretation and application of the Convention… The Committee emphasizes that the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture".

The Committee has also emphasized that "[t]he protection of certain minority or marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment."1 Discrimination by the state or the state's failure to prevent discrimination by private actors or to challenge stereotypes that fuel discrimination is a violation of human rights and can be a contributing element in acts of torture or other cruel, inhuman or degrading treatment.

Discrimination against certain groups heightens their risk of torture or other ill-treatment by state officials in a number of ways. Discrimination enshrined in law (for example, where the law criminalizes consensual same-sex sexual conduct or restricts women's fundamental freedoms) can act as a licence to torture since the victim, in contravening the discriminatory law, may be seen by officials to be responsible for or deserving of the torture they experience. Discriminatory enforcement of laws may affect both a person's chances of coming into contact with the criminal justice system and their treatment once in its hands. As noted by the Committee against Torture, "discrimination undercuts the realization of equality of persons before the law".

The victim's identity or status may also affect the nature and consequences of their ill treatment.

For example, children held in custody with adults are particularly vulnerable to rape and sexual violence. Victims from marginalized groups may have limited access to

legal remedies. Discrimination also reinforces impunity by making it less likely that complaints will be dealt with appropriately in cases of torture or ill-treatment

Discrimination also denies certain groups equal protection of the law against violence inflicted on them in the community and the family, such as violence against women, attacks against street children, and racist and homophobic hate crimes. These violent manifestations of prejudice which result in torture and other ill-treatment are often facilitated and encouraged by official inaction.120 Accordingly, the Committee against Torture has stated that "States parties should, therefore, ensure the protection of members of groups especially at risk of being tortured, by fully prosecuting and punishing all acts of violence and abuse against these individuals and ensuring implementation of other positive measures of prevention and protection".

Regarding the links between torture and racism, the Committee against Torture has expressed concern over instances of police brutality and excessive use of force by law enforcement officials, in particular against immigrants and persons belonging to certain racial and ethnic groups, as well as racial profiling by police and immigration officials. The Committee has recommended among other things that states:

"take all necessary steps to ensure that public officials, including law enforcement officers… do not manifest contempt, racial hatred or xenophobia which may lead them to commit acts amounting to torture or ill-treatment" against "ethnic, racial, religious, linguistic or national minorities, asylum-seekers or refugees, or on the basis of any other status".

The Committee has also emphasized "the vital importance of having transparent and effective official procedures through which individuals can raise complaints of ill-treatment and torture perpetrated on the basis of discrimination, unequal access to justice and related concerns".

The Committee has called on states to combat manifestations of racial discrimination, xenophobia and related violence, including by publicly condemning such acts and sending a clear and unambiguous message that racist or discriminatory acts, including by police and other public officials, are unacceptable, and by prosecuting and punishing the perpetrators of such acts. In accordance with its General Comment 2, the Committee has reiterated that states parties should take effective measures to prevent discrimination against and ensure protection of all minorities, recognized or not, and that such measures should include an increase in recruitment from minority groups to public administration roles, including law enforcement agencies

5) TREASON

a) TREASON ACT 1351

By statute a person is guilty of treason who:

(1) levies war against the Sovereign in Her realm, or is adherent to the Sovereign's enemies in Her realm giving them aid and comfort in the realm, or elsewhere[1];
(2) compasses or imagines the death of the Sovereign[2];
(3) compasses or imagines the death of the King's wife or of the Sovereign's eldest child and heir[3];
(4) violates the King's wife or the Sovereign's eldest daughter unmarried or the wife of the Sovereign's eldest child and heir[4];
(5) endeavours to deprive or hinder any person who is next in succession to the Crown for the time being[5] from succeeding after the demise of the Sovereign to the Crown and the dominions and territories belonging to the Crown and attempts the same maliciously, advisedly and directly by overt act or deed; or, knowing such offence to be done, is an abettor, procurer and comforter of the offender[6];
(6) slays the chancellor, treasurer, or the king's justices[7], being in their places, doing their offices[8].

b) DAWN OLIVER, EMERITUS PROFESSOR OF CONSTITUTIONAL LAW , UCL

Dawn Oliver writes

> But if the courts were to challenge parliamentary supremacy, then by definition we would have a tyranny of Parliament, which is Treason

c) TOM TUGEHDHAT MP' AIDING THE ENEMY' HOW AND WHY TO RESTORE THE LAW OF TREASON

Mr Tom Tugendhat has also written a Daily Mail article advocating the restoration of the law of treason for Islamic Fundamentalists.

He has also written frequently against Shamima Begum and appears to want have Ms Begum tried on treason charges for what she did aged 15.

> **Tom Tugendhat** @TomTugendhat
>
> Feb 19, 2019
>
> Begum's crime is betrayal. Her choice-even if not violent-to side with an enemy who wants to kill us is wrong. She's not alone. Others have done the same, siding with enemies. We need to update our treason law

His argument for restoring the offence of treason are set out in his Policy Exchange publication 'Aiding the Enemy' to which Lord Igor Judge has written a forward.

The authority frequently cited in judicial speeches to show the security of property rights in the UK is the speech given by Lord Camden Chief Justice of the Common Pleas in Entick v Carrington [1765] EWHC KB J98.

> 'The great end, for which men entered into society, was to secure their property. That right is preserved sacred and incommunicable in all instances, where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by private law, are various. Distresses, executions, forfeitures, taxes etc are all of this description; wherein every man by common consent gives up that right, for the sake of justice and the general good. By the laws of England, every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my license, but he is liable to an action, though the damage be nothing; which is proved by every declaration in trespass, where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to show by way of justification, that some positive law has empowered or excused him. The justification is submitted to the judges, who are to look into the books; and if such a justification can be maintained by the text of the statute law, or by the principles of common law. If no excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment

Mail Online

Silk-tongued wheel-greasers are selling us out to despots, says TOM TUGENDHAT

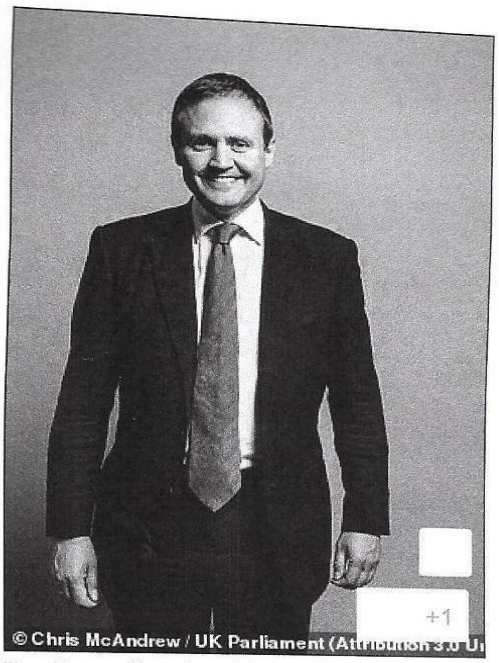
By TOM TUGENDHAT FOR THE MAIL ON SUNDAY
PUBLISHED: 01:17, 19 April 2020 | **UPDATED:** 01:19, 19 April 2020

It was Vladimir Lenin – one of **Xi Jinping**'s favourite philosophers – who famously said capitalists would end up selling the very rope the communists would use to hang them.

And for once, the Russian revolutionary is exactly right.

We're lucky to live in a country known for fairness and the rule of law. Our judicial system and our parliamentary democracy are the most respected in the world. They're part of the reason people around the world trust Britain and are happy to do business with us.

That respect is built on the knowledge that brand Britain stands for quality. From Rolls-Royce to regulation, the skill of our workers and the integrity of our courts weaves a story that gives confidence that our contracts are trustworthy.



Tom Tugendhat gives his verdict on shameful actions of Britain's 'suited svengalis'

Other nations are less fortunate. Deals in some countries are simply not to be trusted. Fake companies in China have been traded on the US stockmarkets and businesses in Russia have won contracts through actions more suited to a gangster movie than a boardroom.

When oligarchs use our courts because their own are corrupt, they're buying trust as much as legal expertise, and when they draw finance from our banks, they want the confidence to know the agreements are safe as well as cheap.

But some of our firms have forgotten that trust underpins vast amounts of our professional services, and are looking for a fast buck.

Everyone has the right to representation before the law, but there's a difference between taking a case as the duty solicitor called to the police cells and sending partners to tout for trade among criminals. and advising firms on the complexities of modern politics isn't the same as helping firms to find ways around democratic oversight.

While one side helps trade and increases trust, the other feels like sharp practice. But it doesn't just cost them.

Well-heeled lawyers and slick accountants taking eye-watering fees from oligarchs aren't just helping silence critics through the British courts, or to turn questionable profits into seemingly honest businesses, they're undermining the foundations on which they've built their business, they're cheapening the value to their words.

Deal by deal, a few bad apples are putting at risk the reputation that makes them rich. again, I am not talking about those mentioned on this page, but the country is being sold out by individuals ranging from some lawyers and accountants to a few former Ministers and advisers.

Too frequently, we've seen those who once wrote the rules and negotiated agreements to protect us, and some who still sit in our Parliament, selling the tricks they learned in Government.

Why should state enterprises or gangsters be able to cheat the rules the rest of us have to follow? It makes life harder and more expensive for all of us. Estate agents turning a blind eye to property deals it's clear the foreign official couldn't possibly afford legally are putting up the price of homes for all of us.

By promoting a culture of impunity, we're weakening democracies and allowing dictatorships to grow. allowing oligarchs and statebacked enterprises – too often connected to corruption, crime, or human rights abuses – to move their money freely, makes the world more dangerous for everyone.

Many will blame the regimes who hire the silk-tongued wheelgreasers, but they're doing exactly what we should expect.

They're trying to normalise the actions of the new aristocracy in Beijing or Moscow. They're trying to build the world that works for them.

It's our own suited svengalis – those members of the governing and business class who are happy to do our rivals' bidding – whose actions are truly shameful.

They're not just costing jobs; they're weakening our influence and costing our future. If we lost our reputation for quality, and the world started to see us as a place where rogue states and criminals could get their own way, would our friends and partners be so keen to do business here?

https://www.dailymail.co.uk/debate/article-8233445/TOM-TUGENDHAT-Silk-tongued-wheel-greasers-

The 50 or so 'hearings' which were needed to complete the Red River fraud all took place behind the Lender's back and Tugendhat made his fraudulent instrument behind my back

But, isn't this what the judges who committed the Red River Conveyancing and Mortgage Fraud and the Bar Mutual Fraud,

TOM TUGENDHAT: Why Britain needs a new law to punish treason

By TOM TUGENDHAT FOR THE MAIL ON SUNDAY

PUBLISHED: 01:26, 9 February 2020 | **UPDATED:** 01:28, 9 February 2020

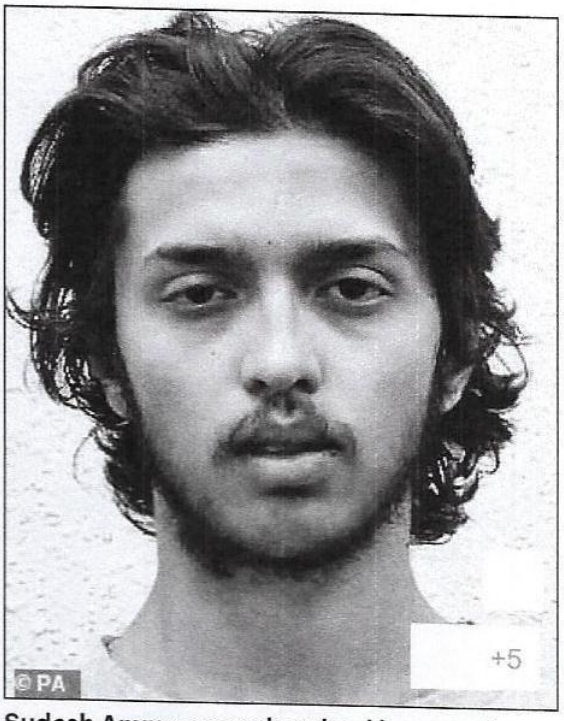
Today we are facing a wave of Islamist terror. In the past three months alone, jihadis have struck three times with deadly intent: at Fishmongers' Hall in **London** in November, at Cambridgeshire's Whitemoor Prison in January, when four prison officers and a nurse were injured, and in Streatham, South London, last Sunday.

On each occasion, the attackers unleashed mayhem. They used knives to slash their victims and caused panic by wearing fake suicide vests. Their aim was to kill as many innocent people as possible and they wanted to die in the process, to achieve what they believe to be 'martyrdom'.

The most important duty of a state is to protect its citizens, and this means we now face a question of overwhelming importance: how should Britain respond?

Category A high-security prison, the assailants were able to carry out a quite horrifying onslaught.

The most tragic case of all was Fishmongers' Hall, where a convicted Islamist, released on licence, turned a rehabilitation conference into a scene of terrible violence. Two young Cambridge graduates devoted to the unglamorous work of turning criminals into law-abiding citizens lost their lives. The fact that other reformed offenders fought to save his victims suggests their work was not entirely in vain. But clearly we are too generous in thinking that creative writing workshops could deradicalise someone who had planned to blow up the London Stock Exchange.



Sudesh Amman was shot dead by armed police on Streatham High Road on Sunday

The Government's response over the past week – hasty as it was – is to be welcomed. If the emergency legislation is passed, fewer terrorist offenders will be released early from jail. There will be closer involvement from the Parole Board and a renewed focus on public safety. That can only be good.

But does it go far enough? For such measures still risk underestimating the problem

To find a way forward, we must recognise three things: that unreformed jihadis belong in jail; that the prison system must do more to prevent Islamist activity behind bars; and that deradicalisation programmes must be proven to work.

In recent days there has been talk behind the scenes of detaining jihadis under the Mental Health Act, which allows people to be locked up if they are a threat to themselves or to others. In some cases, where there is a legitimate diagnosis, this could make sense. There is also something to be said for any measure that reduces the glorification of violent and suicidal acts.

But there is also a flaw in the idea. For too many Islamist terrorists are not mentally ill. They are rational actors who subscribe to a twisted ideology. Most are born and raised in Britain. They went to school here, experienced our free society, then willingly chose to turn against it, often siding with sworn enemies of the UK, such as Islamic State. This specific betrayal is, in itself, a terrible crime. It destroys the bonds of trust that hold communities together and weakens national unity. It is a breach of the duty each of us owes to our fellow citizens. And it has a name: treason.

The Treason Act 1351 – passed during the reign of Edward III to punish offences including 'violating the King's wife' – remains British law but it has been overtaken by changes in our society and politics. It is not a secure ground on which to mount prosecutions.

That is why I believe we need a new Treason Act to punish the wrong of betraying our country, as I today set out in my Policy Exchange paper Aiding The Enemy.

Should the offence of Treason be brought back ?

Our current terrorism legislation tends to focus on the violent act. Anyone plotting a bomb attack, for example, should be put away for a very long time. But pledging allegiance to IS or inviting others to do the same can lead to much shorter sentences.

Anjem Choudary was imprisoned for just five-and-a-half years despite mountains of evidence that he had radicalised others. This cannot be right. Having poisoned the minds of many, the London-born lawyer was able to get away with his worst acts because our laws are not sufficient to address acts of betrayal.

d) LORD CHIEF JUSTICE ON TREASON

Foreword

By Igor Judge, Lord Chief Justice of England and Wales 2008–2013

We all know what treason is: or think we do. John Harington, Elizabeth I's godson, perceptively observed:

> *"Treason doth never prosper, what's the reason?*
>
> *For if it prosper, none dare call it treason".*

400 years later, what do we dare call treason? Most of us have not the slightest doubt that treason is and should be a very serious crime. Many of us may be surprised to be reminded, as we are by this challenging paper, that the offence of treason still current was enacted over 650 years ago in the Treason Act 1351.

As it was all so long ago we tend to forget that, like modern legislation, the Act was intended to provide legal certainty by defining the ingredients of treason and establishing its limitations. It was largely concerned with the personal safety of the monarch, then the embodiment of the state, the safety of some but not all members of his family, and officials at the heart of his administration. So, for example, while going armed to kill the monarch or his spouse fell within the definition, going armed to kill anyone falling outside this express protective banner was in future to be regarded as felony or trespass according to laws "of old time used". This mediaeval attempt to achieve clarity and a proper balance provides a pre-echo of the most interesting questions today: whether the current laws against terrorism and disclosure of official secrets are or are not adequate to cover what might be or, arguably, should be treated as treason, and whether there should be and if so, how, any appropriate distinctions should be preserved or redefined.

The problem confronted by this paper is that "the law of treason has become unworkable". A typical but striking anomaly exemplifies the difficulties. To this day it would be treason (and murder) to slay the Chancellor or Treasurer, that is, the Lord Chancellor (now the Minister of Justice) and presumably, the Chancellor of the Exchequer (or is it? The Prime Minister is the First Lord of the Treasury) or the Queen's Justices "being in their places and doing their offices". It would however be murder but not treason to slay the Lord Chancellor, the Chancellor of the Exchequer or, as the case may be, the Prime Minister, while they are on

holiday. Attacks on the members of the government are not unknown. The Brighton Bombing took place when they were all at a party conference: the attack on 10 Downing Street when they were all at work, but not in Parliament. Which murderous attack would have fallen within the statutory definition of the offence?

The present paper is not directly concerned with what might be described as such esoteric questions, but the fact that they might arise demonstrates that serious attention to the statutory offence would be wise. Further anomalies underline the same point. It is unclear whether duress may or may not be a defence to treason. Whether it is a defence may depend on whether the treason alleged would constitute murder or whether it was based on "levying war against the Sovereign" or "being an adherent to Her Enemies". That would be a serious issue. Less serious, perhaps, there are evidential requirements, based on statute, that corroboration, in its formal legal sense, is required. Thus treason is linked to the only two other offences with a similar statutory requirement, perjury and speeding. Speeding!

It is striking that the Treason Acts (that is the 1351 Act, as amended by subsequent Treason Acts) were regarded as inadequate to cope with the national crisis when the country was at war in 1939. The Treachery Act 1940 provided a workable modern definition of the ingredients of the offence. However, it was repealed after the end of World War II.

In 1977 the Law Commission recommended the repeal of the Treason Acts and their replacement with two new offences, providing a protective ambit against the "overthrow, or supplanting, by force, of constitutional government". The recommendation was ignored. Indeed by 2010 the Law Commission reached a different conclusion. The law relating to treason did not require amendment, but, in effect, should be abolished because the development of new offences, in particular in relation to terrorism, was thought to be "far better suited for tackling problems that currently afflict society". Which is right? Both recommendations have been ignored.

The 1351 Act remains on the statute book. The 2010 edition of Archbold explains why the details and analysis of the offence were omitted from its text: "...although there have been instances of terrorist activity which undoubtedly fell within the compass of treason but which have been prosecuted as offences of murder or under the terrorist legislation.....it seems unlikely in the extreme that there will in the foreseeable future be any such prosecutions". Blackstone is similarly reticent. It is difficult to quarrel with the analysis. What this means is that a criminal offence which on conviction would carry a sentence of imprisonment for life is being left on the statute book and quietly allowed to disappear through disuse, not by repeal or amendment, nor indeed any formal process.

My immediate response is that this is wrong in principle.

In a balanced argument, carefully setting out contrary views, this paper supports a process of modernisation. Treason, it argues, is a heinous crime. It should be marked as such. If a citizen of this country chooses to fight with the Taliban in Afghanistan against British forces his crime is more

than terrorism. It is treason, and should be prosecuted accordingly. The paper notes that a number of nations with a common law heritage, which inherited the offence of treason defined in the 1351 Act, in particular, Australia, New Zealand and Canada, have redefined and produced appropriately worded offences stripped of mediaeval connotations and linked to the modern world and its realities. We have not, and we should.

My own view is that if existing laws relating to terrorism, and other offences, do indeed adequately cover the gravity of criminal conduct which in Australia, New Zealand and Canada is now regarded as treason, we do not need the Treason Act 1351 at all and it should formally be repealed, not just left lingering on. If however they do not, then a modern definition of law of treason is required. This paper is a serious discussion about serious crime. A public debate is surely needed.

7 LITERARY REFERENCES

1) SOME ONE MUST HAVE BEEN TELLING LIES ABOUT JOSEF K. HE KNEW HE HAD DONE NOTHING WRONG BUT, ONE MORNING, HE WAS ARRESTED' FRANS KAFKA, THE TRIAL 1914 -1915

Extracted from Wikipedia :

The Trial (German: *Der Process*,[previously *Der Proceß*, *Der Prozeß* and *Der Prozess*) is a novel written by Franz Kafka in 1914 and 1915 and published posthumously on 26 April 1925. One of his best known works, it tells the story of Josef K., a man arrested and prosecuted by a remote, inaccessible authority, with the nature of his crime revealed neither to him nor to the reader.

On the morning of his thirtieth birthday, Josef K., the chief cashier of a bank, is unexpectedly arrested by two unidentified agents from an unspecified agency for an unspecified crime. Josef is not imprisoned, however, but left "free" and told to await instructions from the Committee of Affairs. Josef's landlady, Frau Grubach, tries to console Josef about the trial, but insinuates that the procedure may be related to an immoral relationship with his neighbor Fräulein Bürstner. Josef visits Bürstner to vent his worries, and then kisses her.

A few days later, Josef finds that Fräulein Montag, a lodger from another room, has moved in with Fräulein Bürstner. He suspects that this maneuver is meant to distance him from Bürstner. Josef is ordered to appear at the court's address the coming Sunday, without being told the exact time or room. After a period of exploration, Josef finds the court in the attic. Josef is severely reproached for his tardiness, and he

arouses the assembly's hostility after a passionate plea about the absurdity of the trial and the emptiness of the accusation.

Josef later tries to confront the presiding judge over his case, but only finds an attendant's wife. The woman gives him information about the process and attempts to seduce him before a law student bursts into the room and takes the woman away, claiming her to be his mistress. The woman's husband then takes Josef on a tour of the court offices, which ends after Josef becomes extremely weak in the presence of other court officials and accused.

One evening, in a storage room at his own bank, Josef discovers the two agents who arrested him being whipped by a flogger for asking Josef for bribes and as a result of complaints Josef made at court. Josef tries to argue with the flogger, saying that the men need not be whipped, but the flogger cannot be swayed. The next day he returns to the storage room and is shocked to find everything as he had found it the day before, including the whipper and the two agents.

Josef is visited by his uncle, a traveling countryman. Worried by the rumors about his nephew, the uncle introduces Josef to Herr Huld, a sickly and bedridden lawyer tended to by Leni, a young nurse who shows an immediate attraction to Josef. During the conversation, Leni calls Josef away and takes him to the next room for a sexual encounter. Afterward, Josef meets his angry uncle outside, who claims that Josef's lack of respect for the process has hurt his case.

During subsequent visits to Huld, Josef realizes that he is a capricious character who will not be of much help. At the bank, one of Josef's clients recommends him to seek the advice of Titorelli, the court's official painter. Titorelli has no real influence within the court, but his deep experience of the process is painfully illuminating to Josef, and he can only suggest complex and unpleasant hypothetical options, as no definitive acquittal has ever been managed. Josef finally decides to dismiss Huld and take control of matters himself. Upon arriving at Huld's office, Josef meets a downtrodden individual, Rudi Block, a client who offers Josef some insight from a client's perspective. Block's case has continued for five years and he has gone from being a successful businessman to being almost bankrupt and is virtually enslaved by his dependence on the lawyer and Leni, with whom he appears to be sexually involved. The lawyer mocks Block in front of Josef for his dog-like subservience. This experience further poisons Josef's opinion of his lawyer.

Josef is put in charge of accompanying an important Italian client to the city's cathedral. While inside the cathedral, a priest calls Josef by name and tells him a fable (which was published earlier as "Before the Law") that is meant to explain his situation. The priest tells Josef that the parable is an ancient text of the court, and many generations of court officials have interpreted it differently. On the eve of Josef's thirty-first birthday, two men arrive at his apartment to execute him. They lead him to a small quarry outside the city, and kill him with a butcher's knife. Josef summarizes his situation with his last words: "Like a dog!"

2) ' 1984' GEORGE ORWELL

Why 1984 is a 2017 Must Read

The New York Times

The dystopia described in George Orwell's nearly 70-year-old novel "1984" suddenly feels all too familiar. A world in which Big Brother (or maybe the National Security Agency) is always listening in, and high-tech devices can eavesdrop in people's homes. (Hey, Alexa, what's up?) A world of endless war, where fear and hate are drummed up against foreigners, and movies show boatloads of refugees dying at sea. A world in which the government insists that reality is not "something objective, external, existing in its own right" — but rather, "whatever the Party holds to be truth *is* truth."

"1984" shot to No. 1 on Amazon's best-seller list this week, after Kellyanne Conway, an adviser to President Trump, described demonstrable falsehoods told by the White House press secretary Sean Spicer — regarding the size of inaugural crowds — as

"alternative facts." It was a phrase chillingly reminiscent, for many readers, of the Ministry of Truth's efforts in "1984" at "reality control." To Big Brother and the Party, Orwell wrote, "the very existence of external reality was tacitly denied by their philosophy. The heresy of heresies was common sense." Regardless of the facts, "Big Brother is omnipotent" and "the Party is infallible."

As the novel's hero, Winston Smith, sees it, the Party "told you to reject the evidence of your eyes and ears," and he vows, early in the book, to defend "the obvious" and "the true": "The solid world exists, its laws do not change. Stones are hard, water is wet, objects unsupported fall toward the earth's center." Freedom, he reminds himself, "is the freedom to say that two plus two make four," even though the Party will force him to agree that "TWO AND TWO MAKE FIVE" — not unlike the way Mr. Spicer tried to insist that Mr. Trump's inauguration crowd was "the largest audience to ever witness an inauguration," despite data and photographs to the contrary.

In "1984," Orwell created a harrowing picture of a dystopia named Oceania, where the government insists on defining its own reality and where propaganda permeates the lives of people too distracted by rubbishy tabloids ("containing almost nothing except sport, crime and astrology") and sex-filled movies to care much about politics or history. News articles and books are rewritten by the Ministry of Truth and facts and dates grow blurry — the past is described as a benighted time that has given way to the Party's efforts to make Oceania great again (never mind the evidence to the contrary, like grim living conditions and shortages of decent food and clothing).

3) EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL BY HANNAH ARENDT

Hitler's SS: How do ordinary people become sociopathic Nazis?

By Tim Brinkfhof

Were Hitler's SS henchmen willing executioners fueled by racial propaganda or mindless servants vying for promotions**?**

The driving factors behind the unprecedented violence witnessed during World War II have long eluded and divided scholars. One of the reasons for this is the fact that the organization of Nazi Germany's *Schutzstaffel* or *SS* — the military order in charge of planning and executing the Holocaust — was not only kept secret from the wider world, but also from the citizenry of the Third Reich and even other compartments of Adolf Hitler's own government.

Secrecy had played a role in the SS since its very formation. When Hitler rose to power within the Nazi party, he needed a force of armed bodyguards loyal only to him — a praetorian guard that could protect him against other figureheads threatening his authority, like Ernst Röhm. Röhm's ranks were filled with military men, but Hitler chose people whose background resembled his own: lower-class laborers, butchers, and watchmakers who had previously had run-ins with the law.

SS men, German historian Heinz Höhne explains in his book The Order of the Death's Head were forbidden from taking German citizens to court, since doing so would risk giving the judicial system insight into the organization's deliberately mysterious and confusing machinations. On orders of the SS leader Heinrich Himmler, no officer was to be deployed in their home region, and units were moved around every three months to prevent fraternization with the local community.

Of the SS, Hermann Göring — Reichstag president and commander-in-chief of the Luftwaffe ± famously stated he had "no insight" and that "no outsider knew anything of Himmler's organization." It should, however, be noted that Göring made this statement

during the post-war trials at Nuremberg, and that he may well have overstated his ignorance to feign innocence; Göring was convicted of war crimes and sentenced to death, but died by suicide instead

While the inner workings of the SS are still unclear, the extent of its viciousness is not. While today's estimates are much higher, Höhne's 1966 book stated the Order of the Death's Head was thought to have murdered between 4 and 5 million Jews; 2.5 million Poles; 520,000 Roma; 473,000 Russian prisoners of war; and 100,000 people suffering from incurable diseases. For over 75 years, scholars have tried to explain how such unfathomable barbarism could have taken place, but they have yet to succeed

Understanding the SS

When it comes to understanding the motivations for Nazi violence, historiography might be of greater use to us than history. Historiography, simply put, is the study of history itself. Specifically, historiography looks at how the ways in which historians approach a particular subject or period change over time as academic trends shift and analytical methods develop. Every decade or so, scholars come up with different, often conflicting interpretations of the typical Nazi's mindset and moral compass

Initial studies of the SS were based on the shaky testimonies of persecuted Nazis. Immediately following the Second World War, former SS officers were hesitant to answer questions about their experience. They refused to accept personal responsibility for their involvement in the Holocaust and other war crimes on grounds that they had obeyed their superiors. Blame, consequently, was shifted to Nazi party leaders, most of whom had already been execute

In the tolerant climate of West Germany, some members of the SS published autobiographies that conveniently absolved their authors from guilt. *SS-Untersturmführer* Erich Kernmayr spoke of a "great frenzy" that had temporarily robbed Nazis of the ability to reason or empathize. *Sturmbannführer* Karl-Friedrich Brill followed Göring's example, stating his own department, the *Allgemeine SS*, operated separately from the *Waffen SS*, who were really responsible

The half-baked explanations these SS officers provided were soon replaced by more articulate and academically sophisticated accounts from concentration camp survivors and other victims of their terror. Buchenwald inmate and politics professor Eugene Kogon, author of *The SS State*, saw the SS as a "super organized master and slave system," whose members were irrationally devoted to the will of a single person and pursued their plans "consistently step by step."

Kogon argued that the SS was a homogenized entity, not only in terms of its operation but also the character of its members. SS officers, he wrote, were "maladjusted and frustrated… total social failures." Psychologist Leo Alexander, who wrote part of the Nuremberg's penal code, compared SS officers to common criminals. Rudolf Pechel, editor and resistance fighter, maintained you could recognize SS officers simply from the dull, lifeless look in their eye

Hannah Arendt's banality of evil

These commentators presented the SS as a highly organized and hyper-functional institution that consisted of people with similar sociocultural and psychological backgrounds acting from the same primordial motivations. Starting in the 1950s, writers like Karl O. Paetel suggested that the reality had been more complex. He concluded SS units consisted of a variety of people — including intellectuals, idealists and common criminals — who rallied around the same cause for different reasons

The image sketched by Paetel became reinforced by the release of previously classified SS files. These indicated the SS was not a well-oiled machine that turned maladjusted people into mindless killers. Nor did its members operate in complete isolation from the rest of the Third Reich. Instead, the SS seems to have been made up of people who had acted consciously and deliberately, sometimes resisting their superiors but always realizing principles that lay at the heart of life in Nazi Germany

Some of the most comprehensive and enduring takes on SS violence were produced by the philosopher and Holocaust survivor Hannah Arendt. Her 1963 book *Eichmann in Jerusalem: A Report on the Banality of Evil* depicted Third Reich governance as inefficient and anarchic, albeit by Hitler's own design. In order to secure his place at the top of the pyramid, the Führer made it so that the flow of command down from him was anything except hierarchical, causing confusion and internal competition

More arresting than the procedures of the Nazi state were the personalities of some of its key administrators, particularly the SS Obersturmbannfuhrer Adolf Eichmann. Instead of an outwardly "perverted or sadistic" murderer, Arendt found a "terrifyingly normal" bureaucrat. The juxtaposition of Eichmann's extraordinary crimes with his seemingly unextraordinary character led the philosopher to coin her now-infamous phrase," the banality of evil"

Eichmann, it appeared, was someone who had participated in Nazi atrocities not for ideological reasons, but to advance his bureaucratic career. This meant that his misdeeds were rooted primarily in his lack of self-reflection. "Evil," Eichmann in Jerusalem reads, "comes from a failure to think. It defies thought for as soon as thought tries to engage itself with evil… it is frustrated because it finds nothing there. That is the banality of evil.

Ordinary men vs. willing executioners

At the time of publication, Eichmann on Trial drew criticism from scholars who were both unable and unwilling to understand how someone could actively participate in racial genocide without intentions that could be considered evil in the conventional sense of the word. Sifting through audiotapes of conversations between Eichmann and Nazi journalist William Sassen, historians eventually learned Eichmann was far more radical in his devotion to Nazi ideology than Arendt had originally believed

Namely, Eichmann told Sassen there were two sides to him, the cautious bureaucrat and the "fanatical warrior fighting for the freedom of my blood." Others, like the novelist Mary McCarthy, reconciled their own interpretation inside Arendt's theoretical framework. "[I]t seems to me that what you are saying is that Eichmann lacks an inherent human quality," McCarthy commented , "the capacity for thought, consciousness — conscience. But then isn't he a monster simply?"

Arendt's work made another large impact on the historiography of Nazism insofar as it drove historians to look at the SS on a person-by-person basis as opposed to a sociological basis. Later studies shifted from high-ranking ideologues to ordinary Germans without political aspirations. Christopher Browning found a particularly promising research topic in the form of Reserve Police Battalion 101, a paramilitary organization under SS leadership that carried out mass executions in Poland

The Police Battalion was unique among Nazi paramilitary groups because it consisted mostly of volunteers, less than one-fourth of which were members of the Nazi party. While these volunteers were given the choice whether or not to participate in the ongoing genocide, more than 80% of them agreed to follow orders. Browning's book,Ordinary Men influenced by the Milgram experiment argues that the volunteers did so primarily out of pressure to conform to expectations from their peers

Browning's claim proved to be as controversial as Arendt's. Opposition to Ordinary Men soon formed around the author, and government studies professor Jonah Goldhagen — whose rebuttal to Browning in a book titled Hitler's Willing Executioners— stresses that the inhumanity displayed during the Holocaust is evident to any rational human confronted with it, and should not become lost in the overly complicated webs of academic or theoretical inquiry.

"Antisemitism moved many thousands of 'ordinary' Germans," reads Goldhagen's conclusion, "to slaughter Jews. Not economic hardship, not the coercive means of a totalitarian state, not social psychological pressure, not invariable psychological propensities, but ideas about Jews that were pervasive in Germany, and had been for decades, induced ordinary Germans to kill unarmed, defenseless Jewish men, women, and children by the thousands, systematically and without pity."