THE LAW SOCIETY'S BANK FRAUD; THE LAW SOCIETY'S FRAUD ON THE COMPENSATION FUND AND ON PRACTICING CERTIFICATE FEE REVENUES; THE LAW SOCIETY'S THEFT OF CLIENT MONEY, RESIDUAL BALANCES, *BONA VACANTIA*, CLIENTS' DEEDS, DOCUMENTS, WILLS, AND DATA; THE LAW SOCIETY'S THEFT OF THE SOLICITOR'S PERSONAL MONEY, PRACTICE MONEY, UNBILLED COSTS, AND WORKS IN PROGRESS; THE LAW SOCIETY'S CRUEL, INHUMAN AND DEGRADING TREATMENT OF SOLICITORS IN VIOLATION OF THE UNITED NATIONS' 1984 CONVENTION AGAINST TORTURE ('UNCAT') ('THE INTERVENTION FRAUD')

1) AN APPLICATION MADE *EX DEBITO JUSITICAE* TO QUASH ALL INTERVENTIONS UNDERTAKEN UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE SINCE 1974, AND TO SET ASIDE THE ORDERS MADE IN THE INTERVENTION CASES IN SCHEDULE I

2) AN APPLICATION MADE *EX DEBITO JUSITICAE* TO REHEAR ANAL SHEIKH V THE LAW SOCIETY [2005] EWHC 1409 (CH) , ANAL SHEIKH V THE LAW SOCIETY [2006] EWCA CIV 1577 , ANAL SHEIKH V THE LAW SOCIETY [2007] HL AND ANAL SHEIKH V THE UK GOVERNMENT 51144/07 [2010] ECHR 649 (23 APRIL 2010)

3) AN APPLICATION TO REVOKE THE CHARTER OF LAW SOCIETY 1845

4) AN APPLICATION TO THE FORFEITURE COMMITTEE TO REMOVE THE HONOURS AWARDED TO DAME JANET PARASKEVA DBE PC, CHIEF EXECUTIVE OF THE LAW SOCIETY 2000-2006, FIONA WOOLF DBE DStJ DL PRESIDENT OF THE LAW SOCIETY 2006-2007 AND TO TIMOTHY DUTTON CBE KC CHAIRMAN OF THE BAR 2007-2008

THE SOLICITORS ACTS OF 1941, 1957, 1965 AND 1974.

QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE

(THE LAW SOCIETY, AS A REGULATOR), THE GOVERNMENT

AND THE ATTORNEY GENERAL ('THE STATE')

SCHEDULE I. THE INTERVENTION CASES

CASE	SOLICITOR'S LEGAL TEAM	LAW SOCIETY'S LEGAL TEAM
Ahmed & Co, Biebuyck, Dixon & Co and the practices of Mr Zoi and In the Matter of Sections 35 and 36 and Schedules 1 and 2 of The Solicitors Act 1974 and In the Matter of the Law Society Compensation Fund Rules 1995 (2009),		Timothy Dutton QC Russell-Cooke LLP for the Law Society in its role as Statutory Trustee Patricia Robertson QC for the Law Society in its role as Trustee of the Compensation Fund.
In the Intervention of Ahmed & Co In the Intervention of Zoi & Co In the Intervention of Biebuyck Solicitors In the Intervention of Dixon & Co. The 54 other interventions considered in the Compensation Fund Case	Published cases in which the Solicitor did not make a Para 6 (4) Withdrawal Application	
Law Society v Baldwin [2004] EWHC 1948 (Ch)	Barrister: O Rhys Solicitor:; Trott & Gentry	Barrister: Robert Englehart QC Solicitor: Devonshires
Law Society v Elsdon & Ors [2015] EWHC	Jeremy Barnett	Barristers: Timothy Dutton QC and Andrew Peebles Solicitor: Devonshires
Gauntlett v The Law Society [2006] EWHC 1954 (Ch)	In person	Barristers: Nicholas Peacock Solicitor: Wright Son & Pepper
Giles v The Law Society (1995)		Barristers: Timothy Dutton Ian McCulloch
Holder v The Law Society [2003] EWCA Civ 39	Barristers: Philip Engelman and Mr Roger Pezzani Solicitor: Teacher Stern & Selby	Barristers: Timothy Dutton QC and Mr Nicholas Peacock Solicitor: Wright Son & Pepper
Khan & Anor v Solicitors Regulation Authority Ltd [2022] EWHC	Barrister: Mark Green	Barrister: Rupert Allen Solicitor : Capsticks Solicitors LLP
Mireskandari v The Law Society & Ors [2009] EWHC 185 (Ch)	Barrister: Hugo Page QC Solicitor: Saunders Bearman	Barrister: Hodge Malek QC,. Andrew Tabachnick Solicitor: Russell Cooke LLP
Neumans LLP v The Law Society (The Solicitors Regulation Authority) [2017] EWHC	Barrister: Fenella Morris QC Solicitor: RadcliffesLeBrasseur	Barrister: James Ramsden QC and Miss Sarah Bousfield Solicitor: Capsticks LLP
PS & Ors v Law Society [2004] EWHC 1706 (Ch) (16 July 2004)	Barrister Philip Engelman Solicitor: The Bower Cotton Partnership	Barrister : Timothy Dutton QC Solicitor: Russell Cooke LLP

Ramasmy v The Law Society [2016] EWHC 501 (Ch) (11 March 2016)	Barrister: Jeremy Barnett Solicitor: Lewis Nedas Law Ltd)	Barrister: Andrew Tabachnik Solicitor : Bevan Brittan LLP
Rose v Dodd [2005] EWCA Civ 957, at		
The Law Society of England And Wales v Shah [2014] EWHC 4382 (Ch)		Barrister : Timothy Dutton QC Solicitor: Russell Cooke LLP
Sritharan v Law Society [2005] EWCA Civ 476, [2005] 1 WLR 2708, at [46]	Barrister: Manjit Singh Gill QC . Kenneth Hamer Solicitor; Thakrar & Co	Barrister: Gregory Treverton-Jones QC Solicitor: Wright Son and Pepper
Simms & Ors v The Law Society [2005] Ch	In person	Barrister : Timothy Dutton QC [1] Solicitor: Russell Cooke LLP
Sheikh v The Law Society [2005] EWHC 1409	Barrister: Gregory Treverton-Jones QC Solicitor: RadcliffesLeBrasseur)	Barristers: Hodge Malek QC , Andrew Peebles Solicitor: Russell- Cooke LLP
Sheikh v Law Society of England & Wales [2006] EWCA	Barrister: Gregory Treverton-Jones QC Solicitor: RadcliffesLeBrasseur)	Barrister : Timothy Dutton QC Solicitor: Russell Cooke LLP
Sheikh v Law Society of England & Wales [2007] House of Lords	Barristers: Hugo PageQC, Philip Engleman, Jonathan Harvie QC Solicitor: Charles Buckley	Barrister : Timothy Dutton QC Solicitor: Russell Cooke LLP
Sheikh v UK Government	Barrister; Philip Engleman	Foreign and Commonwealth Office
Williams v The Law Society of England And Wales (Solicitors Regulation Authority) [2015] EWHC 2302	Barrister: Gregory Treverton-Jones QC Solicitor: RadcliffesLeBrasseur)	Barrister : Timothy Dutton QC Solicitor: Russell Cooke LLP
Wilson Smith v Law Society, 29th March 1999)		
Wright v Law Society, 4th September 2002),		

[1] Assumed because they represented the Law Society on appeal to the Court of Appeal

DEDICATION

"When plunder becomes a way of life for a group of men in a society, over the course of time they create for themselves a legal system that authorizes it and a moral code that glorifies it."
— Claude-Frederic Bastiat (1801-1850)

To the tens of thousands of solicitors who for the past half century have been humiliated, degraded, vilified and pitilessly tortured by the Law Society of England and Wales and by the judiciary of the United Kingdom to satisfy a greed that has been insatiable,
and in memory of those poor souls they have tortured to death.

PART I. BACKGROUND AND CONTEXT

PART II THE QUESTIONS FOR THE STATE

PART I. BACKGROUND, CONTEXT AND FACTS

A THE LAW SOCIETY'S INTERVENTION FRAUD

1 INTRODUCTION

This document is part of a 5000 page analysis. It includes the examination of every Parliamentary Debate on the respective Solicitors Amendment Bills and on related Bills from 1941-1985; it includes a study of the subsequent legislation which was enacted, namely the Solicitors Act of 1941, 1957, 1965 and 1974 and the Administration of Justice Act 1985; and it includes an analysis of every recorded intervention challenge.

This vast body of material however hinges on one simple question.

The question is when and where in the history of the civilised world, other than under the most brutal and despotic tyrannies which have existed, under which law and rationality are suspended, is it possible for a person to possess a profession, trade, skill, occupation or job one minute and, without any discernible intervening causal event, not to possess that same profession, trade, skill, occupation or job the next minute?

In other words, how could a sportsman, a scientist, a university professor, a doctor, a stockbroker, an accountant, a solicitor ,a teacher, a nurse or an architect claim their titles or occupations one minute, but not the next minute. The case of Harold Shipman shows that even where a medical practitioner is suspected of having murdered 250 people, he is still entitled to remain on the medical register over a year after his arrest and 11 days after his conviction following a four month trial, and even then some sort of procedure has to be followed before he is struck off the medical register by the General Medical Council.

What intervening event more serious than killing 250 people could possibly have taken place in that moment of time when a Solicitor is a Solicitor one minute, but not a Solicitor the next minute?

According to the Law Society and the Judiciary the intervening event is the creation and service of a single typed sheet of paper which means that the Solicitor is a Solicitor at 17.57 (the time the Vesting Resolution was recorded as having been transmitted by the Law Society to me by facsimile), but is no longer a Solicitor as 18.00 (the estimated time of receipt by facsimile). On the following day, a publication is made the Law Society Gazette announcing that the Solicitor is no longer entitled to practice.

The single sheet of paper is the Vesting Resolution shown on **Page 14**

For nearly half a century, that is since the enactment of the Solicitors Act 1974 Act, and possibly from as early as 1941 when the Compensation Fund was first introduced, the Law Society of England and Wales has entered solicitors' practices unlawfully, sometimes forcibly; the Law Society has stolen money held in solicitors' Client and Office Accounts, which includes Client Money, Clients' Own Money, Residual Balances (where the ownership of the money is unknown), solicitors' Billed and Billable Costs, solicitors' Personal Money, and *Bona Vacantia* belonging to the Crown; the Law Society has stolen Clients' files, deeds, documents and data; the Law Society has blackmailed solicitors using a false threat of imprisonment; the Law Society has stripped solicitors of their profession and deprived them of their right to practice; the Law Society has divested solicitors of their businesses and livelihood; the Law Society has publically denigrated and vilified solicitors.

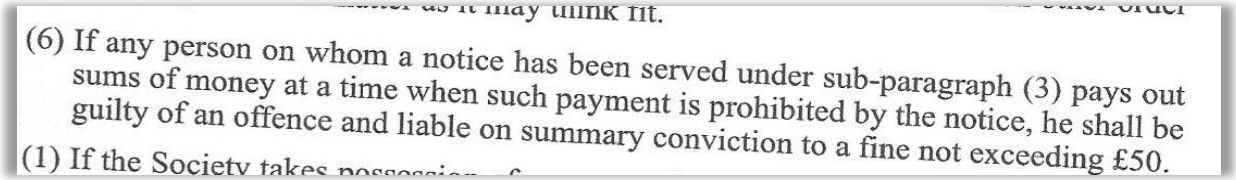
This is the first stage of the Law Society's Intervention Fraud, a fraud worth about £600m per year. **Page 19-22**

The practices who are targeted by the Law Society are always small law firms of up to four or five solicitors or sole practitioners, and the solicitors are usually from black and ethnic minority groups. However, every law firm in the UK is a potential target for the Law Society, including the magic law firms of Allen & Overy, Clifford Chance, Freshfields Bruckhaus Deringer, Linklaters, and Slaughter and May whose revenues exceed billions of pounds. The only obstacles which stop the Law Society from raiding, burglarising and terminating all 11,000 law firms in England and Wales , suspending every single one of the 200,000 Practicing Certificates, and having all the banked money held, which must amount to several trillions of pounds, transferred to the Law Society's own account or that of its favoured solicitor, Russell Cooke LLP, in a single afternoon, are clerical, administrative and practical: the Law Society caseworkers would have to have to spend several days or weeks standing at a fax machine.

How could the regulatory body for solicitors in England and Wales be endowed with a power greater than any power known by any man in recorded history enabling it to acquire more wealth than a Crassus, an Emperor Mansa Musa or an Elon Musk.

Again , the answer is the same single typed sheet of paper and a single four letter word (vest) making the Law Society's Intervention Fraud the most efficient fraud ever known.

The fraud is glaringly obvious from the Law Society's letter to the Bank asking the Bank to transfer the Solicitor's Banked Money to its agents, Russell Cooke, **Page 14-16** which the Bank does. If that does not make the fraud obvious, the Solicitors Act 1974 Schedule 1 Part II Para 6 (6) says so:



(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Not only does this Para 6 (6) make the Law Society's Intervention Fraud self evident and indisputable , the failure to prosecute any of the 2000 -3000 bank directors who have committed criminal offences over the decades **Page 62-63** shows that the banking sector and the Treasury are complicit in the Intervention Fraud.

If the Intervention Fraud is not a conspiracy between the Law Society, the Banks, the Treasury and others the problem is even more serious :

1) it means that UK Banks do not know that a customer's money cannot be transferred to a third party without the customer's knowledge and approval unless it is done with the authority of a court order or

2) it means that there is no legal certainty in the UK about what is and what is not a court order and

3) if UK Banks are willing to transfer the Customer's money to an unconnected third party upon receiving a mere request, there is a risk that they will do the same the same request came from a terrorist organisation **Page 17-18**

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. 047
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 Ponsonby
Manager Intervention & Disciplinary Unit

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

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 27326 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 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, 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
WWMS
CTRC-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 16:21 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) NOTICE PROHIBITING PAYMENT OUT TO BANK (ADAPTED)

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)

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 00395858

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.

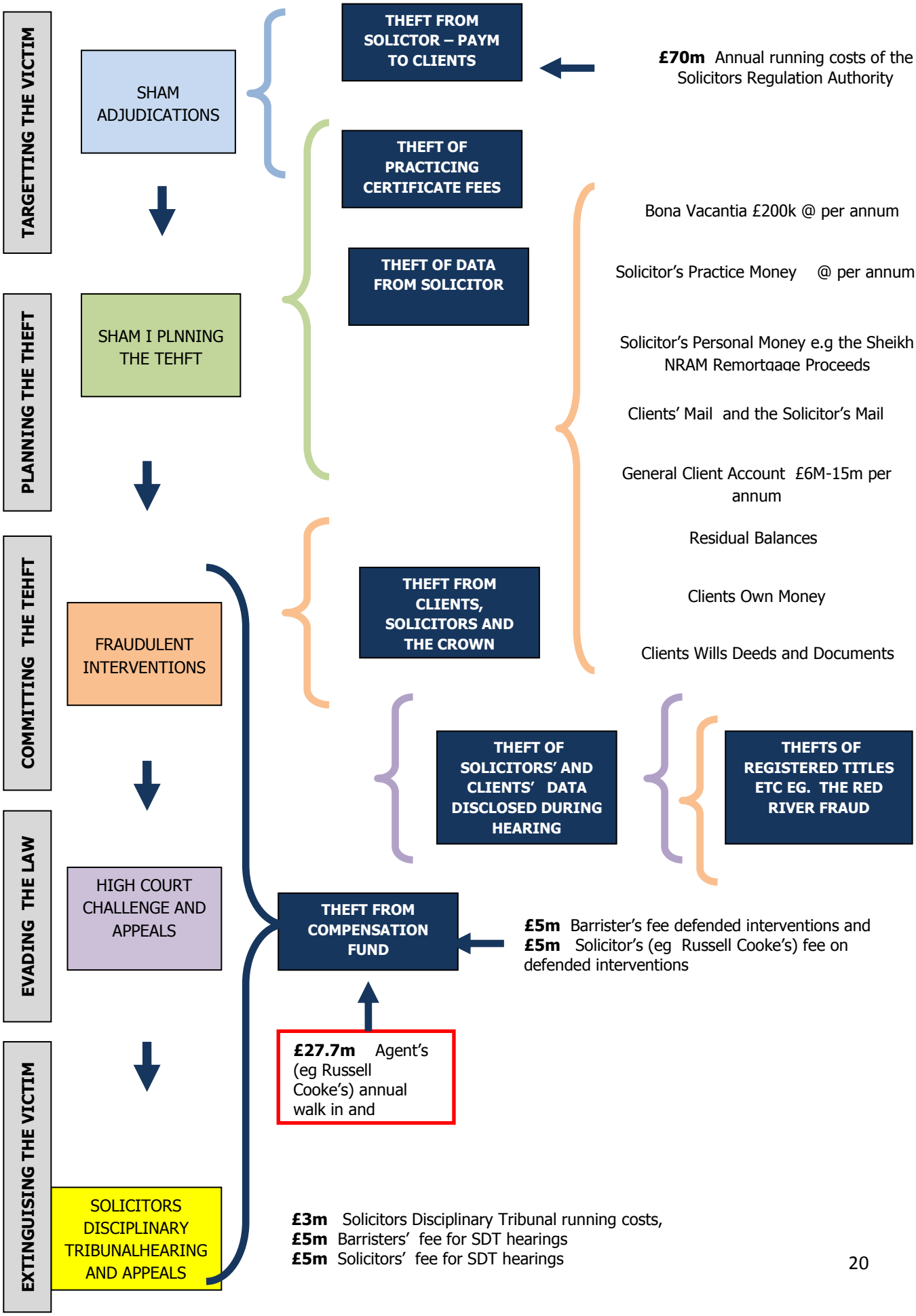
In accordance with Para 6(3) of Schedule 1 to the Sharia's Code Governing the Practice of Solicitors you are asked to transfer Miss Sheikh's funds to the following account

Remit by code all monies in the client current accounts to:
National Westminster Bank plc
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.

DIAGRAM SHOWING THE MONEY GENERATED BY THE INTERVENTION FRAUD

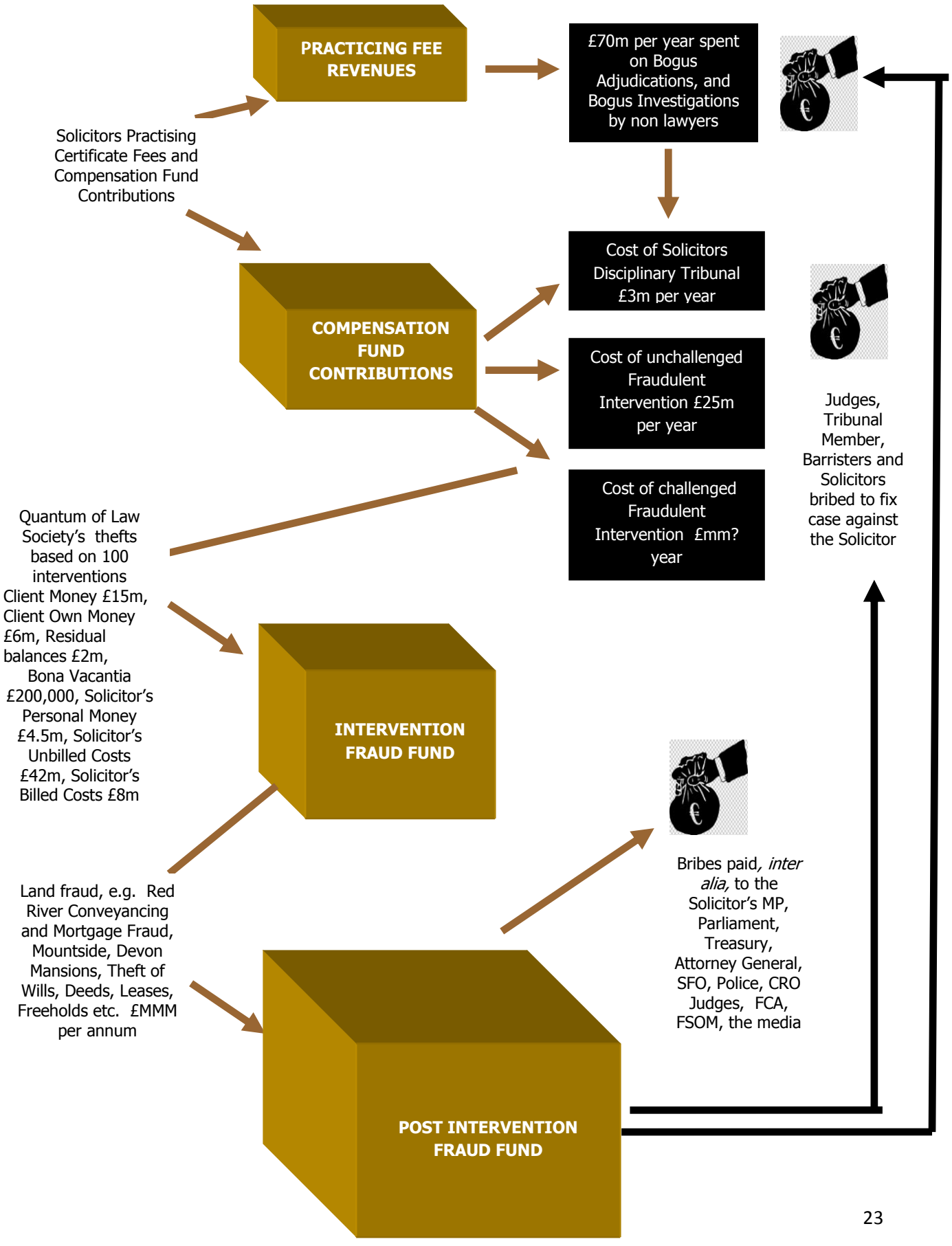


COMPOSITE TABLE OF THE QUANTUM OF THE LAW SOCIETY'S THEFTS, FRAUD AND CORRUPTION PER 100 INTERVENTIONS

	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

DIAGRAM SHOWING THE GENERATING OF MONEY BY THE INTERVENTION FRAUD



The use a false document to perpetrate a scam, such as in extortionate money demands, bogus bailiff warrants, fake letters from HMRC or Local Authorities and bogus marriages, is commonplace. The fake document is effective because the victim is duped by its legal appearance and the use of legal terminology. The use of the Vesting Resolution to commit the Intervention Fraud is no different : its legal appearance gives it the appearance of legitimacy and the term 'vest' is used because its meaning would only be known to a limited number of specialists in trusts law **Part 2C5(6) Page 1013-Page 1032.** (How 'vest' is used; and it does not mean 'transfer').

The Intervention Fraud is based on fraudulent narratives which are:

1) that the Vesting Resolution has the effect of a court freezing order and a order directing the Solicitor's Bank to transfer the Solicitor's Banked Money to the Law Society

2) that an intervention, by which the Solicitor' professional life if not his entire life is destroyed, commences and concludes as a single act with the service of the Vesting Resolution. In fact, an intervention is a process which could continue for many years in which the Vesting Resolution is merely trigger which starts it. The Vesting Resolution has the same function as a Company Board Resolution. How else would a limited company make a formal decision?

3) that unless the Solicitor pays hundreds of thousands of pounds to apply for the 'withdrawal' of the Vesting Resolution (i.e. the Board Resolution) and makes the application to court within 8 days (RadcliffleBrasseur's claimed costs for my High Court hearing were £368,000) the Solicitor will lose everything he possesses: his practice, his livelihood, his home and his future.

4) that, on a rare occasion that a Solicitor manages to make the challenge, the Judiciary does have to determine whether the Solicitor is honest or dishonest; the Judiciary has to decide whether the Law Society had reason to suspect the Solicitor of dishonesty. The Two Stage Process which the court has adopted for the three or four decades **Page 238-254** means that the Judge has to decide whether after applying some method or following some procedure (what method or procedure is not known) someone at the Law Society (whose identity, role , status or qualification is not known) has formed the suspicion that the Solicitor has done something which was dishonest (what he has done is not known) which the decision maker does not have to specify. Furthermore, the Judge has to decide the issue without examining the person or persons who had formed that belief. In other words, the Judge has to decide the case not by applying the law or evaluating the evidence , but by the use of telepathy.

   In Sheikh v The Law Society (High Court 2005) Park J found that no one knew why the Law Society had intervened. He then proceeded to do something unheard of: Park J decided the case based on what the Law Society's barristers, Hodge Malek KC and Andy Peebles, and my barrister, Gregory Treverton Jones KC, thought the Law Society's reasons for suspecting me of dishonesty might have been. Fortunately, the outcome was in my favour.

Uncertainty about the precise grounds for intervention; the consequences of the uncertainty for this case

42. I now wish to return to the Panel's resolutions to intervene, the relevant parts of which I have quoted in paragraph 39 above. The Panel resolved that it was satisfied that it had reason to suspect dishonesty on the part of Miss Sheikh in connection with her practice as a solicitor (resolution 1), and that Miss Sheikh had failed to comply with the Solicitors Accounts Rules (resolution 2). Without those resolutions the intervention could not have been made. There are certain other grounds set out in the Act which may permit an intervention to be made, but there is no suggestion that any of them applies in this case. It is important to note that the Act does not permit the Law Society to intervene in a practice in any case where it (acting presumably by one of its Panels) considers that an intervention is desirable for any reason or reasons. So far as the present case is concerned the Act only permitted an intervention if, either there was reason to suspect dishonesty, or there had been breaches of the Solicitors Accounts Rules, or both.

43. In relation both to the Panel's resolution that there was reason to suspect dishonesty on the part of Miss Sheikh and to its resolution that there had been breaches of the Solicitors Accounts Rules absolutely no particulars are given. In this particular case I consider that the absence of particulars causes considerable difficulty, especially as regards the finding of suspected dishonesty. What precisely was the dishonesty, and what precisely were the grounds which raised a suspicion of it? The Panel does not say. This is, I understand, in line with standard practice for Law Society Panels. In normal cases (which in my opinion this case is not) the absence of particulars in a Panel's finding of grounds to suspect dishonesty may not particularly matter, because the nature of the dishonesty and of the grounds of suspicion is perfectly obvious to anyone. (Nevertheless I comment that the s.10 of the Tribunals and Inquiries Act 1992 requires tribunals and, in a few cases, Ministers, to give reasons for decisions. I do not have sufficient experience of cases about interventions to have an informed view of whether it would be sensible for Law Society Panels to adopt a similar practice. I do, however, draw attention to s.10 in case the Society might wish to consider reviewing its normal practice.) In all the earlier cases of interventions which I was shown the alleged dishonesty was clear for all to see. Similarly, in so far as the intervention may also have been founded on breaches of the Solicitors Accounts Rules, the breaches were equally obvious, and almost always consisted of solicitors either not having client accounts at all in breach of rule 14 or taking money off client account and using it for private purposes or for their own professional purposes (like reducing the office overdraft or paying the office rent) in circumstances where the taking of the money was prohibited by rule 22. Furthermore, as far as I can ascertain, although the members of the Panel in Miss Sheikh's case presumably did know what sort of dishonesty they suspected and what their grounds for suspecting it were, nobody else in the Law Society knew. The Law Society officers who gave evidence before me (Mr Penson, Mr Shaw, and Miss Patrick) did not know. Mr Shaw observed, absolutely rightly, that, if he had been involved in the investigation and in the preparation of the report placed before the Panel, it would not have been right for him to be present during the Panel's deliberations. No evidence was called by the Law Society from any member of the Panel.

44. This has caused substantial difficulties in the case, and in my view has had an unfortunate effect on the nature of the proceedings. Miss Sheikh did not know any detail of what sort of dishonesty was being alleged against her, and in her first witness statement could do little more on this aspect of the case than to say that she utterly refuted any suggestion that there was reason to suspect dishonesty on her part. She has always accepted that she failed to reply to correspondence and that there have been some technical infringements of the Solicitors Accounts Rules, but she denies any kind of dishonesty. Since she does not know what specific kind of dishonesty the Panel suspected, she has great difficulty in doing more than making a general denial. Her legal team in this case, Mr Treverton-Jones QC and his instructing solicitors, Radcliffes Le Brasseur, could only speculate as to the case which they had to meet. In a criminal case an indictment which merely charged that there was reason to suspect dishonesty would never survive. The same would apply to a pleading in a civil claim.

45. I as the judge was in the same position as Miss Sheikh's legal advisers. And, importantly as it seems to me, the Law Society's legal team, headed by Mr Malek QC were also in that position. They must look for their instructions to Mr Penson's

department within the Law Society. That department has the responsibility for following through and implementing the Panel's resolution that there should be an intervention, one ground for which (probably the main ground) was that there was reason to suspect dishonesty. Mr Penson's department's responsibility is not limited to carrying out the intervention: it includes defending the intervention against the legal challenge to it which Miss Sheikh has brought. Mr Penson and his colleagues have not asked the members of the Panel to give particulars of their reasons for suspecting dishonesty. I assume in this respect that they followed normal practice, but a consequence must have been that they have been unable to give any specific instructions to Mr Malek and Mr Peebles on this critical part of the case.

46. In the circumstances it seems to me that Mr Malek and Mr Peebles have had to do the best they can to find in the extensive documentation in the case any features which, as it seems to them, might have given rise to a suspicion of dishonesty, to present them to me as giving rise to such a suspicion, and to cross-examine Miss Sheikh and Mr Sampat in a way which entails alleging dishonesty in numerous different respects. This has had a major impact on the nature of the trial. Mr Treverton-Jones (who, I might mention, has great experience in cases of this nature, nearly always representing the Law Society, not the solicitor) has complained vigorously about it. I quote some extracts from his written closing submissions. They are expressed in trenchant terms. In a judicial capacity I might look for less high octane ways of making the points, but I have to say that I agree with everything that Mr Treverton-Jones is saying: *'endless hours of labour by Law Society's legal team in seeking to unearth "smoking guns" in the thousands of pages of documents before the court'; 'a case in which so many scattered allegations have been made against the intervened upon solicitor'; 'the court is asked by the Law Society to continue an intervention, the original rationale of which had never been properly explained'; 'forensic tactics of the Law Society (perhaps understandable in the light of the unexplained decision of the Panel) in relentlessly seeking to paint almost every act or omission of Miss Sheikh in its most sinister colours'; 'every allegation, large or small, has been pursued ... As a consequence the litigation has occupied many days of court time, most of it taken up by submissions or prolonged cross-examination by the Law Society'.*

Note 1 Park J unwittingly permits the barristers to make up the allegations

47. It seems me that Parliament visualised that applications under Schedule 1 paragraphs 6(4) and 9(8) for orders that notices of intervention be withdrawn could and would be brought quickly to court, and would be capable of being dealt with quite speedily, since by that time the solicitor would know what was alleged against him or her. Subparagraphs 6(4) and 9(8) require the Law Society to be given 48 hours notice of such an application, but no more. *Giles v The Law Society* and *Holder v The Law Society* (both supra) have rejected arguments that the intervention procedure is flawed, either under the rules of natural justice or under the European Convention on Human Rights, on the ground that the solicitor does not initially know what the case against him is. The reasoning in both cases is that, if the solicitor exercises his right to apply to the court for the intervention to be withdrawn, he should then receive all the material which the Panel had before it, and will know the basis on which the Panel found that one or more of the conditions for intervention existed. In normal cases that will be true: if the Panel has found that there were reasons to suspect dishonesty, once the solicitor (and his legal advisers), upon commencing proceedings for the intervention to be withdrawn, read the materials which were before the Panel it will

be obvious what the reasons were. That is simply not the case here in so far as the Panel found that there were reasons to suspect dishonesty. Miss Sheikh and her advisers did have the documentary materials which the Panel had, but they do not to my mind make it clear at all what the alleged dishonesty was or what the grounds for suspecting it were.

Those who are engaged in the monstrous and cruel fictions upon which the Intervention Fraud is based and which destroy a man's life are

- the Law Society,
- the High Court,
- the Court of Appeal
- the Supreme Court,
- the European Court of Human Rights,
- UK's banks including the Bank of England,
- the Financial Conduct Authority,
- the Attorney General,
- the Serious Fraud Office and other law enforcement agencies,
- the Government and
- Parliament

2 THE HUMAN COST

At the very moment that the Vesting Resolution is faxed to the Solicitor and to his Banks, the Solicitor's life implodes.

An intervention means that the Solicitor will lose his reputation in a profession he has worked towards since school and university, and for a professional man, whose work defines him , that is a very special type of agony; the Solicitor will lose a business he will have worked long hours over many years to build up; he will lose what may be his only source of income; he will lose the value of his past work; he will face financial ruin and bankruptcy; he and his family will face homelessness and destitution; his marriage and family life will disintegrate; his children will lose their security, their lifestyle and their future; he will lose his children; his friends and social networks will disappear; he will be excluded and marginalised; he will suffer depression which will manifest itself in physical illness; confined to a single room living off State benefits , his life will be lose all meaning and be worthless.

The Law Society targets solicitors who are in their mid 40s when their practices will be thriving, they will enjoy a high income , and they will have built up a substantial capital base, but they will be of an age at which they will lack the energy or will to fight back.

If a Solicitor's life is destroyed when he is 45 years old, he has to endure 30 or 40 years of suffering. Terrorists, murderers, paedophiles and rapists receive lesser sentences, and can retain their money and property.

With a future so bleak and hopeless which they are unable to withstand, and are powerless to change, solicitors have committed suicide; they have ended up in mental institutions or have resigned themselves to living out the remainder of their lives in interminable misery and despair, no better than a living death.

Where else in the civilised world is a single sheet of paper invested with an equivalent power to destroy a man?

Lawrence Mann shot his brains out. He was accused by a caseworker of dishonesty involving £5,000, subsequently proven to be a simple accounting error. **Page 31.** Ranee Basse, a 50 year mother of three, was found hanging from the beams in her office. She had been falsely accused of dishonesty. **Page 29-30.** There are others who live out the rest of their lives in trauma and terror **Page 32**

There are cases of unlawful imprisonment . A black solicitor, a former criminal law practitioner, was committed by a High Court Judge to prison for contempt. His problems started when his employer said to his face 'All Nigerians are dishonest'. Warren J had made a Civil Restraint Order against him behind his back to stop the black solicitor from disclosing the Law Society's files about him which he had legitimately obtained through disclosure. He was arrested in the very courtroom while making an application to Warren to set aside the Civil Restraint Order. Warren decided that he had disobeyed the order by showing the file to the solicitor he had instructed to set it aside. The files contained an email from the Solicitors Regulatory Authority saying to the effect of 'Let's get the black man, and use the white man's evidence against him'. The 'white man' was also a solicitor. I have seen the Forensic Investigation Report made in the case which showed that the white solicitor had committed money laundering offences. To my knowledge, he was never prosecuted and is likely still practising, whereas the black solicitor has been barred from the profession for almost 20 years now.

These are only a few of the brutalities the Law Society perpetrates against its Solicitor members.

After having published my material on my website 'The Law Society's Intervention Fraud two months ago, I have been asking the Law Society to answer the following :

> *Will the Law Society urgently implement a national and international information campaign to identify the Solicitors who have been the victims of the Fraudulent Interventions, both living and deceased, and to establish*
>
> *1) the effect of intervention on the solicitors and their families, especially on their children,*
> *2) the suicide statistics,*
> *3) the statistics of the solicitors who have suffered mental illness,*
> *4) the statistics for the solicitors who have lost their homes,*
> *5) as distinct from above, the homelessness statistics for solicitors*

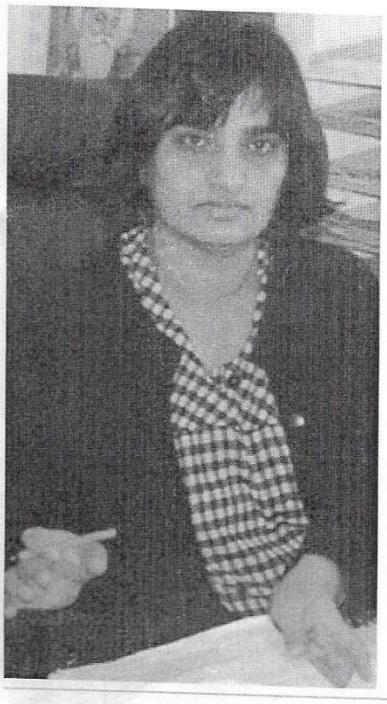
The silence with which the request has been met is inhuman.

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.

2

'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?'

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 .

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

3 HOW MANY SOLICITORS HAVE KILLED THEMSELVES? COMPARISON WITH THE POST OFFICE SCANDAL

The Post Office Scandal,. now the subject of a public inquiry, has been described the largest miscarriage of justice in UK history. **Page 37-39.** From 2000 to-2014, 736 post office branch managers were unjustly and unlawfully convicted for theft. It has now transpired that faulty accounting software made it look as though money was missing . The Court of Appeal has found the Post Office's conduct to have been "an affront to the conscience of the court"

From overt racism, to denial and concealment, and the silent suffering endured by the victims., the similarities between the Law Society's Intervention Fraud and the Post Office Scandal are patent.

The difference is also patent: the one was the unintended consequence of a technological malfunction in an automaton, the other is a depraved and evil enterprise conceived, implemented and deployed by those who are the moral and legal guardians of a civilised and just society.

If the Law Society is unwilling to actively discover the suicide rate, the figure can be extrapolated from the number of suicides in the Post Office Scandal :

ESTIMATED NUMBER OF SUICIDES AMONG INTERVENED UPON SOLICITORS

	No of Solicitors intervened into		No of Suicides
Assumptions	Per year	1974-2024	1974-2024
Of 736 Sub Post Masters there were 4 suicides over 4 Years i.e 0.005435 % of the total number killed themselves			
There are 100 Interventions per year with an average of 2 solicitors per practice	200	10000	680
There are 400 Interventions per year with an average of 2 solicitors per practice	800	40000	2718
There are 100 Interventions per year with an average of 3 solicitors per practice	300	15000	1019
There are 400 Interventions per year with an average of 3 solicitors per practice	1200	60000	4076
There are 100 Interventions per year . Each practice has 4 solicitors	400	20,000	1358
There are 400 Interventions per year . Each practice has 4 solicitors	1600	80,000	5435

Post Office IT scandal is blamed for FOUR suicides - Daily Mail

Post Office scandal: Worker committed suicide after being ...

Evening Standard
https://www.standard.co.uk › News › UK

24 Apr 2021 — Post Office worker took his own life after being wrongly accused of stealing £60K · **Martin Griffiths took his own** life in 2013 at the age of 59.

Horizon IT scandal: Former subpostmistress contemplated suicide ...
Sky News

18 Feb 2022 — A **former subpostmistress contemplated suicide** and suffered post-traumatic stress disorder after being subjected to a "kangaroo court" process ...

Post Office IT scandal: Tearful first witness 'contemplated ...

https://news.sky.com › story › post-office-it-scandal-te...

16 Feb 2022 — **Baljit Sethi, 69**, told proceedings how he had gone from facing down armed robbers at his Romford Post Office, to contemplating suicide after ...

Cheshire postmaster's tragic suicide features on Panorama

Chester Standard
https://www.chesterstandard.co.uk › news › 20094321...

26 Apr 2022 — **Cheshire man** pushed to suicide due to Post Office scandal featured by Panorama ... Martin Griffiths had successfully run a post office in Great ...

Post Office IT scandal: victims say bosses should answer ...
The Guardian
https://www.theguardian.com › business › feb › post-o...

22 Feb 2022 — A former Post Office worker has told the public inquiry into the Horizon IT scandal he tried to **kill himself on three occasions** after being ...

My uncle took his own life after the Post Office went after him
The Independent
https://www.independent.co.uk › voices › post-office-...

19 Dec 2019 — After 14 years running a respected sub-post office, **an upgrade to Horizon** started to cause discrepancies in his accounts. Instructed by the Post ...

28 Apr 2023 — Four postmasters have committed **suicide** and three other victims of the Horizon IT **scandal** died before they could be cleared of the false ...

Devastated wife of Cheshire man who killed himself over ...
Cheshire Live
https://www.cheshire-live.co.uk › ... › What's On News

25 Apr 2022 — But in fact, it was the **Post Offices**' accounting system Horizon that was not working properly, showing gaps in income that were false. The Post ...

Family of postmaster in Horizon IT scandal waiting 12 ...
The Times
https://www.thetimes.co.uk › article › family-of-postmast...

28 Apr 2023 — The widow of a postmaster who died in a suspected **suicide** is still ... Peter Huxham, 63, was the popular owner of the **post office** in the ...

-

The Times view on the Post Office IT scandal: Dying for ...
https://www.thetimes.co.uk › article › the-times-view-on-...

26 Apr 2023 — Innocent people were ruined, jailed and driven to **suicide** after being blamed for financial losses that were in fact the result of a flawed ...

Post Office scandal: Swansea sub-postmaster felt suicidal
BBC
https://www.bbc.co.uk › news › uk-wales-60557795

1 Mar 2022 — A sub-postmaster tried to take his own life in the years after an IT glitch led to him being falsely accused of stealing money from his ...

Post Office Horizon scandal back in the news
Milsted Langdon
https://www.milstedlangdon.co.uk › News

12 May 2023 — These failures tragically resulted in at least four **suicides**, dozens of cases of wrongful imprisonment and marital breakdowns. In 2019 a group ...

Post Office IT scandal blamed for 4 suicides

PressReader
https://www.pressreader.com › scottish-daily-mail

28 Dec 2021 — FOUR people caught up in the **Post Office** IT **scandal** are believed to have taken their own lives after being hounded for cash that wasn't even ...

Post Office Worker On How Scandal 'Ruined Her Life'

YouTube
https://www.youtube.com › watch

31 Aug 2023 — "We Basically Planned Our **Suicide**" - **Post Office** Worker On How **Scandal** 'Ruined Her Life' · Comments16.

Post Office IT scandal is blamed for FOUR suicides

Royal Mail Chat
https://www.royalmailchat.co.uk › viewtopic

28 Dec 2021 — Following being chased after cash missing from the **Post Office** IT **scandal**, it is believed that four of those involved took their lives. Daily ..

How the Post Office wrecked the lives of its own workers

Private Eye
https://www.private-eye.co.uk › special_reports

specialists, the **Post Office** decided to use the ... **fraud**. Not all the prosecuted were convicted. A few ... The coroner recorded a verdict of **suicide**.

The Post Office scandal is possibly the largest miscarriage of justice in UK history – and it's not over yet

Published: August 9, 2023 3.31pm BST

The Post Office scandal involves miscarriages of justice involving hundreds of innocent people who were wrongly convicted of theft, fraud and false accounting. It has been going on for over 20 years, with the Post Office accused of a cover up after it repeatedly failed to disclose key evidence.

The Post Office Horizon IT Inquiry and court cases have heard that at least 60 subpostmasters have died without seeing justice or compensation, and at least four took their own lives.

We are now conducting a three-year study, funded by the Economic and Social Research Council, to examine the role of lawyers in the scandal, explore the subpostmasters' experience of the criminal justice system, and to determine what implications the scandal has for lawyers' ethics and the legal sector more widely.

So how did the scandal start, and why is it taking so long for the victims to get justice?

Horizon

In 2000, the Post Office introduced the Horizon IT system across its network of franchises and branches. Horizon flagged accounting shortfalls, indicating that money was missing. The Post Office used Horizon evidence to take punitive action against subpostmasters and employees, including suspensions, termination of contracts and criminal prosecutions.

But reliance on Horizon was misplaced as shortfalls were often caused by errors and bugs in the system. As problems with Horizon began to emerge, rather than admit them, the Post Office defended its IT system, doubling down and holding the line that Horizon was "robust".

Over many years, the Post Office, aided by its lawyers, engaged in what looks like a cover-up due to repeatedly failing to disclose what they knew about problems with Horizon across a number of court cases. Hundreds of innocent people lost their livelihoods, their homes and some were imprisoned as a result.

Requests for information about the reliability of Horizon by subpostmasters facing criminal prosecution were denied by Post Office lawyers. Evidence that should have been disclosed in criminal proceedings was not disclosed.

Unable to get evidence to help them, subpostmasters were often advised by their own lawyers to plead guilty to lesser charges (such as, false accounting rather than theft) to escape a prison sentence.

Sometimes, this strategy was successful and sometimes not. There are many harrowing stories of the devastating impact of prosecutions and the sanctions

that followed on innocent men and women who felt they had no choice but to plead guilty to something they had not done.

Disclosure failings

In April 2021, 39 former subpostmasters had their convictions quashed at the Court of Appeal. The court concluded that the Post Office should not have prosecuted them in the first place and found the Post Office's conduct "an affront to the conscience of the court". Such comments by the Court of Appeal are damning and rare.

The Court of Appeal's judgment in 2021 built on findings in a High Court case in 2019, where the failings of Horizon were exposed. The judge in that case also found the defence by the Post Office to be aggressive, excessive, misleading, and otherwise unsatisfactory.

It included an application to unseat the presiding judge, whom the Post Office considered was biased. Even in those High Court proceedings, the Post Office failed to disclose critical information about the problems with Horizon.

A number of internal reviews clearly showed that Horizon was flawed and yet this information was either ignored or suppressed. A legal opinion from lawyer Simon Clarke from 2013 criticising the reliability of a key witness used in the Post Office's prosecutions, only came to light in 2020 during the criminal appeals. Clarke was a barrister working for the main solicitors firm paid to prosecute subpostmasters. In spite of the concerns it raised, his advice led to surprisingly little evidence being disclosed.

The Post Office's dogged stance that "all was well" with Horizon was used to cover up an ever-increasing volume of evidence that all was far from well. Disclosure failings persisted throughout the criminal prosecutions, during the High Court case and during the criminal appeals.

And the scandal isn't over yet.

Recent developments at the long fought-for Post Office Horizon IT inquiry reveal the Post Office's ongoing difficulties with disclosure. The inquiry was established to examine the implementation and operation of Horizon.

Inquiry Chair, Sir Wynn Williams, has recently referred to the Post Office's "grossly unsatisfactory disclosure failings", and further requests for documents from the Post Office will now be made under threat of criminal sanction for non-compliance.

A Freedom of Information request by campaigner Eleanor Shaikh in May unearthed a Post Office document which used offensive and racist terms to categorise subpostmasters under investigation. The document had not been given to the inquiry, despite its obvious importance.

Meanwhile, the Post Office's late filing of over 4,000 documents, the evening before Gareth Jenkins was due to give evidence to the inquiry, led to the proceedings being adjourned. Jenkins is a Fujitsu engineer whose role in

the prosecutions and civil litigation will be under intense scrutiny for failing to disclose Horizon technical failures to the courts. Hearings in phase four of the inquiry are now set to continue in September.

The Post Office has been at pains to say that it is intent on "righting the wrongs". They have a long way to go to do this. Disclosure failings continue and the provision of compensation to subpostmasters has been unduly slow. Progress on appeals is also painfully inadequate.

4 HOW MANY CLIENTS' LIVES HAVE BEEN DESTROYED BECAUSE THEY HAVE LOST THEIR SOLICITOR ? WHAT ARE THE STATISTICS FOR CLIENT SUICIDES?

The intervened upon Solicitor will have Clients who depend on him. Assuming a modest caseload for each Solicitor of 50-100 files, tens of thousands of Clients are impacted to some degree. The degree to which the Client is effected obviously depends on the sort of case being handled by the Solicitor: a conveyancing or probate Client may only experience delay and the inconvenience of having to instruct another solicitor , whereas personal injury client, commercial litigation client or matrimonial client may suffer serious disadvantage.

Two categories of Clients are exceptionally compromised.

The first is the Client whose fate in the hands of his Solicitor. His case is literally a matter of life and death. Mr Julian Assange is an example. Mr Assange is at a crucial stage of his extradition challenge which, if lost, would lead to his incarceration in a US Supermax prison described as a 'cleaner version of hell' . What would happen if his law firm , Birkbeck Peirce, were intervened upon mid trial and if the solicitor who has been supporting him for many years , Gareth Pierce, was suspended or struck off?

Another example is the Intervened upon Solicitor himself, who has to entrust his fate to another Solicitor.

While he was acting for me in my 2005 intervention challenge, Paul Saffron stole £250,000 from his firm, RadcliffesleBrasseur, which may have been in part my £254,000 Sheikh-NRAM Remortgage Monies. **Page 41, Part 1B8 Page 1607-Page 1762** (The Conspiracy between the Law Society, Treverton Jones KC, Radcliffes, Saffron, Dutton KC and others to steal the £254,000 Sheikh-NRAM Remortgage Monies)

Saffron was committed to mental institution and to prison. Andrew Hopper KC, an intervention expert, acting for him says he wanted to die.

If Saffron had wanted to die because he had been found guilty of theft and he felt his life had been destroyed, what would the Client Saffron was supposed to be defending have felt when that Client's life was actually destroyed when he had not even committed an act of professional misconduct, let alone theft?

The second category of Clients are the Clients of Intervened upon Solicitors whom the Law Society discover own property which the Law Society then steals. There are two cases of property theft in my 2005 Intervention:

1) The Conspiracy between the Law Society, Treverton Jones KC, Radcliffes, Saffron, Dutton KC and others to steal the £254,000 Sheikh-NRAM Remortgage Monies **Part 1B8 Page 1607-Page 1762**. I had undertaken my own conveyancing and therefore was a Client of the firm. As a result of the conspiracy , my home was also stolen and my mother and I were made homeless

2) The Red River Conveyancing and Mortgage Fraud **Impeachment Petition Page 6- Page 51 , Page 72- Page 81 Summary Page 8- Page 13, Page 32-Page 48** and in **Part 1B4 Page 377 - Page 689** which was the theft of the title to the Stoke Newington Site, which is shown as developed at **Page 42** The Site belonged to two Clients: Mr Ismail Dogan and my late mother. My mother's interest was stolen, and I have no doubt that Mr Dogan's interest was also stolen.

Where the Law Society steals the Victim's property, it may represent every thing the Victim owns. The Victim will be left with the choice of accepting a complete reversal of fortune or challenging the abuse. If he does the latter, he is subjected an vortex of sham litigation which is designed to drive a person to despair.

Within a space of 2 years my mother and I were systematically stripped of £3.5m and reduced to homelessness and poverty, leaving us both contemplating ending our lives when we ejected from our mortgagee free home when I faced the real possibility of living on the streets. **Page 44-47** I have illustrated how our assets were stolen in the diagram at **Page 48**

My mother's state of mind is revealed by her medical report shown at **Page 43**

There are no available statistics on the number of Client suicides. The following table is an estimate:

ESTIMATED NUMBER OF CLIENT SUICIDES

	Practices Intervened into	No of Cases	No of Client Suicides
Assumptions	1974-2024	1974-2024	1974-2024
Each Practice has a 3 Partners. Each Practice has an average of 1000 live cases. 1 Client out of every 5 intervened firms upon kills himself			
There are 100 Interventions per year	5000	5000000	1000
There are 200 Interventions per year	10000	10000000	2000
There are 300 Interventions per year	15000	15000000	3000
There are 400 Interventions per year	20000	20000000	4000

Ham & Highgate Times

Struck off after spending thousands on strippers

Published: 1:21 PM May 15, 2008

A LAWYER from Highgate has been kicked out of the profession after he blew more than £200,000 of his firm's cash on strippers

A LAWYER from Highgate has been kicked out of the profession after he blew more than £200,000 of his firm's cash on strippers.

Divorced father of three Paul Saffron, 43, from Stanhope Road, raided the accounts of top law firm Radcliffes Le Brasseur over more than three years. He spent most of the cash on lap dancers in clubs across London.

Colleagues at the 150-year-old law firm called in the police when they discovered a £104,000 hole in the accounts.

Saffron insisted he was clinically depressed and had only spent the money quickly so he would have no alternative but to kill himself out of shame when he was discovered.

But last Thursday, the Solicitors' Disciplinary Tribunal ignored his pleas to be allowed to stay in the profession.

Speaking at the tribunal, Saffron said: "I didn't feel strong enough to proceed immediately to suicide. I felt I had to force myself into that action and leave myself with no alternative."

Last year the lawyer was jailed for 12 months after he admitted 38 charges of theft from May 2003 to September 2006.

Saffron's lawyer Andrew Hopper QC said his client was depressed and wanted to die.

37-47 Stoke Newington Road London N16

Central and North West London NHS
NHS Foundation Trust

NHS no. 466 202 0115

Dr. N. Jeyakanthan,
Speciality Dr. to Dr. Prabhakaran
Mental health Services for Older Adults,
Bentley House,
15-21 Headstone Drive,
Harrow
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Mental Health Services for Older Adults
Older Adult Psychology Department
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15-21 Headstone Drive
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HA3 5QX

Tel: 020 8424 7709
Fax: 020 8424 7773

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

6333

THE MULIPLICITY OF CRIMES AND HUMAN RIGHTS ABUSES COMMITTED AGAINST THE SOLICITOR. THE LAW SOCIETY'S LITIGATION VORTEX AND OTHER TORTURE TECHNIQUES

16.40 THURSDAY 17 FEBRUARY 2005

Ashley & Co.
Solicitors
Est.1940

Goodwill, Works in Progress £1m

Mountside £575,000

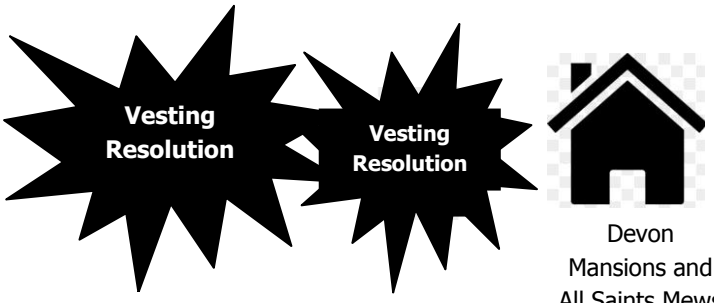
Devon Mansions and All Saints Mews £600,000

Stoke Newington Site £1.2m

Sheikh's Total Assets = £ 3.4m

Law Society = £ 0

1 MINUTE LATER



Goodwill, Works in Progress £1m

Mountside

Devon Mansions and All Saints Mews £600,000

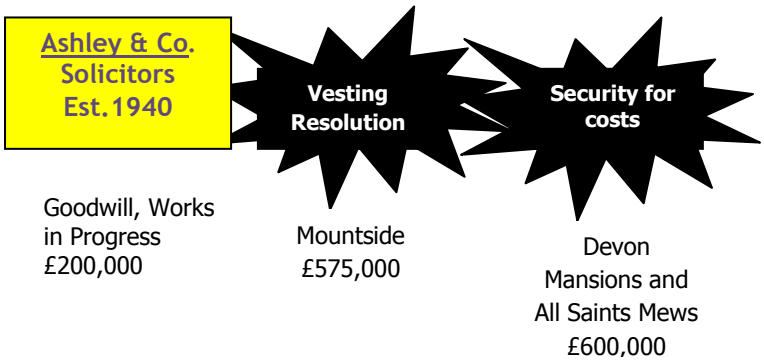
The Law Society used the Vesting Resolution to steal my practice of Ashley & Co and the £254,000 Sheikh-NRAM Remortgage Monies which arrived on the same day.

Stoke Newington Site £1.2m

Sheikh's Total Assets £ 1.8m

Law Society & Russell Cooke £1.254m

JULY 2005 FOLLOWING THE HIGH COURT JUDGMENT



Stoke Newington Site £1.2m

The Law Society had paid the £254,000 to Paul Saffron, not to me. He then stole the money. The consequence was that the NRAM Mortgage was secured on Mountside notwithstanding that I had never received the proceeds. In 2011 Mountside was repossessed making me and my mother homeless.

The Law Society were ordered to pay 90% costs . Saffron estimated his costs to be £100,000., so the Law Society paid £90,000.

Treverton Jones KC who was colluding with the Law Society against me and had attempted to lose the case, agreed that I should give security for the costs pending appeal. Devon Mansions and All Saints were given as security.

The Law Society , Treverton Jones and Dutton and the Court of Appeal had already planned to undermined Park J's judgment. Following its 'decision' the Devon Mansions and All Saints Mews were also reposed.

Ashley & Co was restored to me, but the Clients had left and Goodwill had gone. All that was left were unbilled costs of about £200,000.

Sheikh's Total Assets = £ 1.4m

Law Society. Russell Cooke Treverton Jones, Radcliffes £ 2.4M.

2004 TO 3PM FRIDAY 5 SEPTEMBER 2007

Mountside £575,000

Devon Mansions and All Saints Mews £600,000

Ashley & Co had now closed. I could no longer work because of the litigation I had to deal with on all fronts shown in the Litigation Vortex diagram.

The £200,000 had been spent on legal costs for the sham litigation

All my mother and I had left was her interest in the Stoke Newington Site.

Stoke Newington Site £1.2m

Sheikh's Total Assets £ 1.2m

Law Society £ 2.4M.

10 MINUTES LATER

Goodwill, Works in Progress £200,000

Mountside £575,000

Devon Mansions and All Saints Mews £600,000

After the PM Hearing on 5th October 2005, Briggs Fraudulent Instrument was sent to the Land Registry.

At 3.10, the Sheikh Registration Application was removed and the First Stage of the Red River Conveyancing and Mortgage Fraud was complete.

The Site would later be developed into 100 residential units and 6 shops yielding about £60m net development profit.

Stoke Newington Site £1.2m

Sheikh's Total Assets = £ 1.2m

Law Society, Briggs and others = £ 60M.

May 2009

Sheikh v Marc Beaumont for £900,000

I paid £120,000 as a fixed fee to Marc Beaumont which I received from my insurers to deal with all my cases. When he dealt the appeal against Briggs Fraudulent Instrument, his advice 'Briggs did his best. Appeal totally without merit' was obviously wrong. I issued a breach of duty claim and obtained default judgment on account for £900,000.

Sheikh £ 10m-£15m from the Law Society case and say £40m from the Red River Fraud

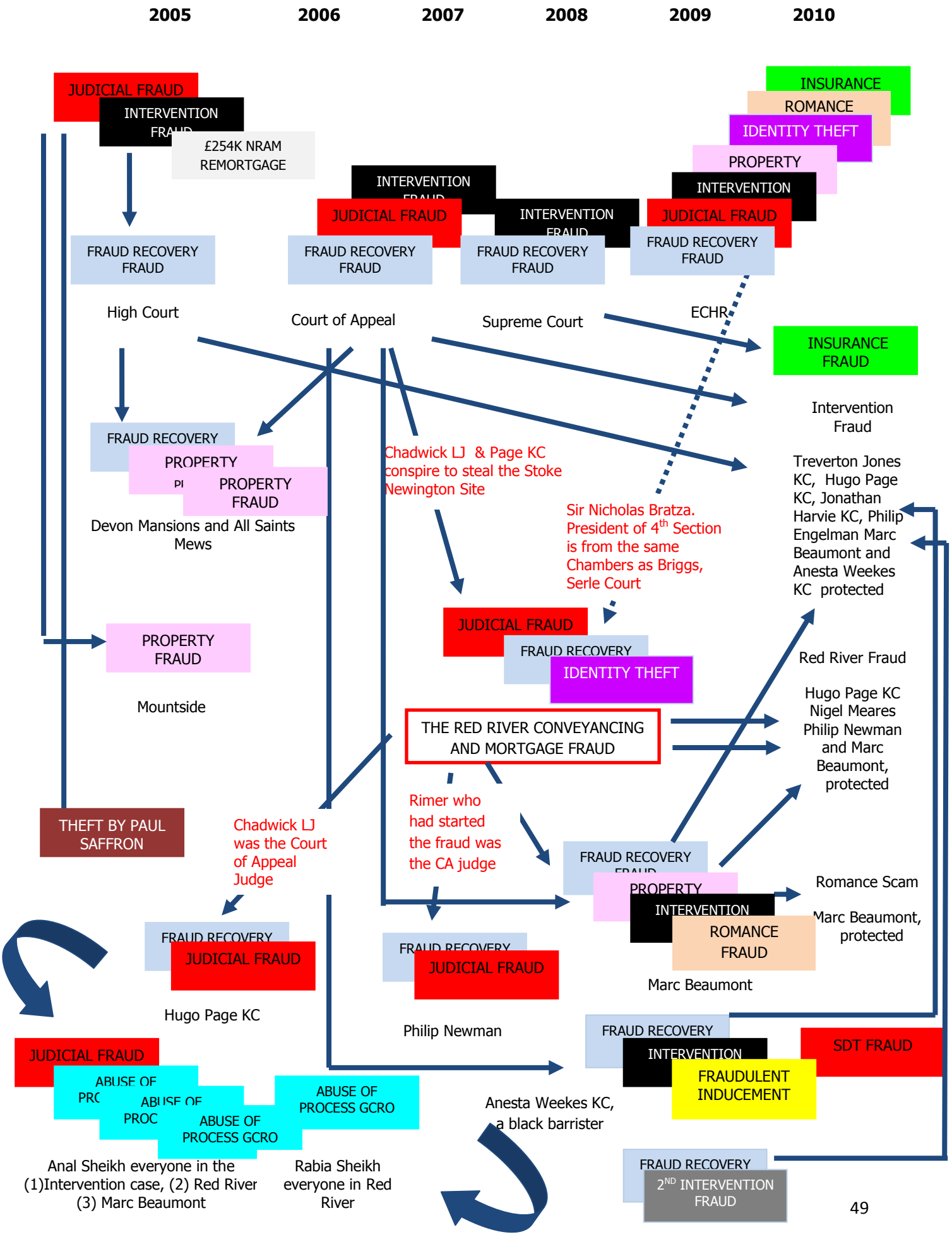
July 2009

Sheikh v Marc Beaumont for £900,000

Master Grey, Simon J and Burnett J stole the Default Judgment and split the value with Bar Mutual

Sheikh's Total Assets £ 0

Lord Chief Justice Burnett, Simon LJ and others say £ 5m-£7m from the Law Society case and £15m from the Red River Fraud


2005
2006
2007
2008
2009
2010
JUDICIAL FRAUD
INTERVENTION FRAUD
£254K NRAM REMORTGAGE
FRAUD RECOVERY FRAUD
High Court
INTERVENTION FRAUD
JUDICIAL FRAUD
FRAUD RECOVERY FRAUD
Court of Appeal
INTERVENTION FRAUD
FRAUD RECOVERY FRAUD
Supreme Court
INSURANCE
ROMANCE
IDENTITY THEFT
PROPERTY
INTERVENTION
JUDICIAL FRAUD
FRAUD RECOVERY FRAUD
ECHR
INSURANCE FRAUD
Intervention Fraud
FRAUD RECOVERY
PROPERTY
PROPERTY FRAUD
Devon Mansions and All Saints Mews
Chadwick LJ & Page KC conspire to steal the Stoke Newington Site
Sir Nicholas Bratza. President of 4th Section is from the same Chambers as Briggs, Serle Court
Treverton Jones KC, Hugo Page KC, Jonathan Harvie KC, Philip Engelman Marc Beaumont and Anesta Weekes KC protected
PROPERTY FRAUD
Mountside
JUDICIAL FRAUD
FRAUD RECOVERY
IDENTITY THEFT
Red River Fraud
THE RED RIVER CONVEYANCING AND MORTGAGE FRAUD
Hugo Page KC Nigel Meares Philip Newman and Marc Beaumont, protected
THEFT BY PAUL SAFFRON
Chadwick LJ was the Court of Appeal Judge
Rimer who had started the fraud was the CA judge
FRAUD RECOVERY
PROPERTY
INTERVENTION
ROMANCE FRAUD
Romance Scam
Marc Beaumont, protected
Marc Beaumont
FRAUD RECOVERY
JUDICIAL FRAUD
Hugo Page KC
FRAUD RECOVERY
JUDICIAL FRAUD
Philip Newman
JUDICIAL FRAUD
ABUSE OF PROCESS GCRO
ABUSE OF PROCESS GCRO
ABUSE OF PROCESS GCRO
Anal Sheikh everyone in the (1)Intervention case, (2) Red River (3) Marc Beaumont
Rabia Sheikh everyone in Red River
Anesta Weekes KC, a black barrister
FRAUD RECOVERY
INTERVENTION
FRAUDULENT INDUCEMENT
SDT FRAUD
FRAUD RECOVERY
2ND INTERVENTION FRAUD

5 IT THE LAW SOCIETY ALLEGES DISHONESTY ITS RECEIVES £277,000 - £MM? FROM THE COMPENSATION FUND; IF THE LAW SOCIETY DOES NOT ALLEGE DISHONESTY, IT RECEIVES NO PAYMENT FROM THE COMPENSATION FUND

The Law Society's Intervention Fraud is based on a secretive, duplicitous and quasi-legal procedure. Its primarily objective is theft from the Compensation Fund.

The Compensation Fund was established in 1941. In the mid 1970s there were about 38,000 practising solicitors contributing towards the Fund. The 1974 Compensation Fund Value is not known. The Compensation Fund Value today is about £60m. Some of the money is invested in land and in securities. Some is held as cash bank deposits.

Cash in substantial amounts cannot be removed from bank accounts without arousing suspicion. So, how does the Law Society steal tens of millions of pounds held by the Trustees of the Compensation Fund, without detection?

Para 7(e) Schedule 2 of the 1974 Act provides the answer. The provision entitles the Law Society to recover legal costs incurred in Ground 1 Interventions (Dishonesty by Solicitor Etc.) from the Compensation Fund

Section 36.

SCHEDULE 2 THE COMPENSATION FUND

(As amended by they Administration of Justice Act 1985 (c. 61, SIF 76:1), s. 9,

[ ]

7 All money from time to time forming part of the fund and all investments of the fund shall be applicable—

(a)for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the fund;

(b)for payment of any premiums on insurances affected by the Society under paragraph 5;

(c)for repayment of any money borrowed by the Society for the purposes of the fund and for payment of interest on any money so borrowed;

(d)for payment of any grants which the Society may make under section 36;

(e)for payment of all costs, charges and expenses incurred by the Society by virtue of paragraph 1(1)(a) of Schedule 1 and of any costs or damages incurred by the Society or its employees or agents as a result of proceedings against the Society or its employees or agents for any act or omission done or made by it or them in good faith and in the execution or purported execution of the powers conferred by Part II of Schedule 1;

(f)for payment of any other sums properly payable out of the fund by virtue of section 36 or this Schedule.

The provision states that the Law Society intervenes on the Ground of dishonesty , its legal costs are paid from the Compensation Fund; if the Law Society intervenes under any of the other Grounds, such as Account Rule Breaches or Delay, the Law Society does not receive payment from the Compensation Fund. Presumably, the Law Society looks to the Solicitor to recover its costs in these circumstances.

Collins J, who in Ahmed & Co, Biebuyck Solicitors, Dixon & Co & Ors, Re Solicitors Act 1974 [2006] EWHC 480 (Ch), found that the Law Society could also apply untraceable residual balances, then standing at £55m, towards its legal costs, confirms as much:

> 22. The Compensation Fund pays the cost of interventions where the ground for intervention is reason to suspect dishonesty: Schedule 2, paragraph 7(e). This is because interventions on grounds of dishonesty are in the interests of the profession as a whole, in that they may prevent further dishonesty on the part of the intervened in solicitor, which would, otherwise, result in further claims on the Compensation Fund from the victims of that dishonesty: *Law Society v KPMG Peat Marwick* [2000] 1 All ER 515, affd [2000] 1 WLR 1921. A consequence of the Law Society's exercise of its two basic powers of intervention (document possession and money vesting), in suspected dishonesty cases, is protection of the Compensation Fund.

The Law Society claims it undertakes 100 interventions per year. Records from other sources show that there are 400 interventions per year. Assuming that each intervened upon firm has an average of 3 solicitors, and also assuming that the intervention rate has remained consistent over the past five decades, applying the lower statistic, the Law Society has destroyed 15,000 professional lives, using the higher statistic, that figure increases to 60,000.

Applying the statistics in Ahmed & Co, on each dishonesty based intervention , the Law Society receives

£25m / 90 = £277,000.00

The Law Society only retains two or three agents, Russell Cooke being the Law Society's main agent, which means that each firm receives revenues of about **£9m-£14m** per year for 100 interventions (or **£36m-£55m** for 400 interventions). And that is just for walk in and management costs of interventions.

The Law Society also steals Client Money, Residual Balances, Unbilled Costs, Costs billed but not transferred, the Solicitor's Personal Money, and whatever else can be stolen.

The financial fraud is only one aspect. The Law Society's criminal activities result in human rights abuses, corruption, degradation in the rule of law and repression of democracy by means of

1) Arbitrary arrest and detention.
2) Racism and dehumanisation
3) A corrupt Government , a corrupt Parliament and a corrupt judiciary
4) Family corruption networks ,
5) Constraints on access to justice
6) The exacting of personal vendattas.
7) Control of law enforcement agencies
8) Fear
9) Torture
10) Displacement .
11) Forced starvation
12) Slavery, or servitude

making the Intervention Fraud is synonymous with state sponsored crime: **Summary Page 25-28.**

In high profile cases, the Law Society's legal costs could be as high as £3m-£5m. If Law Society's legal costs are £3m-5m , the Solicitor must have been guilty of serious dishonesty to have merited the spending of millions to prosecute him, surely? Not at all. Under the Law Society's Fraudulent Intervention Procedure any old allegation will do, so long as the word 'dishonesty' is included ; after all, the Law Society's allegations will never be tested in court.

In my case, were it not for the terrible outcome for me, the Law Society's allegations would be laughably outrageous : (All references are to **Part 1)**

1) I was dishonest because I made costs transfers from Client to Office Account 'which ended with a zero' **D4 Page 1030- Page 1149**

2) I was dishonest because I made a costs transfer of £25 from Client to Office Account without sending a bill to the Client ('the Smoking Gun Allegation'). **D4 Page 1150- Page 1151.** As executor, I was the Client, so there was no need to send myself a bill. I had included the bill, which was for copying costs, under the Expenses Section of the Estate Accounts which was sent to the Beneficiary. That is sufficient to comply with the rule and the usual way of dealing with the item. Unfortunately, none of three case workers, nor Mike Calvert, who reports to Middleton, nor Middleton himself, nor Sarah Bartlett, who reports to the Panel, nor the Panel Chairman, Sneary, nor Russell Cooke, nor Hodge Malek KC, nor his junior counsel, Andy Peebles, bothered to look at the Estate Accounts, and even if they had done, they were oblivious of the rule, so it would not have made any difference. About half a day of court time with four members of Law Society's team present was spent on the Smoking Gun Allegation. The Compensation Fund paid their legal fees.

3) I was dishonest because I allegedly breached the Round Sum Transfer Rule (taking money before or without billing) in legal aid cases . The allegation is impossible to make because Rule 21 of the Solicitors Account Rules 1998 provides that Rule 19(2) and Note 10 (the Round Sum Transfer Rule) do not apply in legal aid cases, but no one knew at the Law Society or in its legal team knew that either **D4 Page 982-Page 983**

4) I was dishonest because I did not transfer my entire billed costs of say, £11,011.37, or £21,011.37, or £31,000.37 as the case may be, but left £11.37 or £1.37 or £0.37 in Client Account **D4 Page 1050-Page 1054** (my system of batch posting)

5) I was dishonest because I caused a cash shortage, the meaning of 'cash shortage' being the transfer of billed costs amounting to £35,000 representing four years work shown by 16 Arch full lever files **D4 Page 1152- Page 1319** (Thirkettle) In the case in question, the Law Society had devised its own perverse lexicon to bring the charge, or had lost its faculty of sight and could not see the 16 Arch lever files of work.

6) I was dishonest because my secretary had written a note to herself saying ' Make up trial bundle' **D4 Page 932- Page 936**

7) I was dishonest because I had transferred my remortgage proceeds to my private account after completing the remortgage of my home **D8 Page 1607- Page 1723** (The theft of the £254,000 Sheikh- NRAM Remortgage Proceeds). An honest solicitor would have given the money to Pareskeva, the then Chief Executive of the Law Society.

8) I was dishonest because I did not complete a probate case which usually takes one or two years, and the case in question took 14 months with a file 6 inches thick, within 7 hours (Burrows **D1 Page 879-Page 881**)

9) I was dishonest because I tried to stop the Legal Services Commission from being defrauded (Wiggs **D1 Page 881-Page 888)**

10) I was dishonest because I created a discretionary will trust for a dying client who consulted me on IHT saving. I should have created the normal husband and wife will her second husband had wanted ,maximised IHT and risking the money she had inherited from her parents going to his future wife (McGonnell **D1 Page 888- Page 891)**

11) I was dishonest because I asked a client if she wanted to formally instruct me and pay for my work. An honest solicitor would have done it free (Modood **D1 Page 892- Page 892)**

12) I was dishonest because I complied with a court order (Helman **D1 Page 894)**

As soon as the word 'dishonesty' is mentioned, the Law Society is guaranteed the minimum payment of the aforementioned sum of £277,000 per firm, rising to a final figure of £5m - £6m per firm and in some cases even more.

The word 'dishonesty ' is made up of 10 letters of the alphabet. That means that the Law Society gets £27,700 per letter, rising to £500,000 - £600,000 per letter. Has there ever been a fraud in the history of the world which has been more bounteous than the Law Society's Intervention Fraud?

The fact is that an entire industry has been built on the revenues generated from the Law Society's Intervention Fraud. Careers have been forged, reputations built, fortunes made, and an army of dependents created: inept caseworkers at the Solicitors Regulation Authority, wielding a power beyond their expectation; secretarial and support staff assured of lifelong job security at Russell Cooke, Devonshires and other firms fortunate enough to be chosen as the Law Society's agents ; court officials eager for bribes; Members of the Solicitors' Disciplinary Tribunal, beholden to the Law Society for a supplementary income or their pension; lazy, incompetent, unprincipled and money hungry barristers, such as Dutton KC and Treverton Jones KC, guaranteed victory in every case and substantial fees, who enjoy lives of luxury with their pampered wives and indulged offspring, while their Victims and their Victim's families have to suffer the poverty , degradation and misery that they have wrought.

6 ANAL SHEIKH V THE LAW SOCIETY [2005] EWHC AND TIMOTHY DUTTON'S FRAUDULENT ADVICE TO THE LAW SOCIETY'S HIGH PROFILE LITIGATION COMMITTEE ON AN APPEAL

My name is Anal Sheikh. The case of Anal Sheikh v Law Society HC 2005 Ch was the first time in legal history that a solicitor succeeded in setting aside an intervention (or rather what the judge mistakenly believed was an intervention, and what the Law Society and the barristers and solicitors involved on both sides, pretended was an intervention).

That I am the only solicitor in history to have beaten the Law Society is not said with any pride: a 100% prosecution success rate is the boast of every corrupt judicial system in the world.

Park J's judgment, and it says a great deal that it was the last he delivered before his retirement from the Bench, was a damning indictment of the Law Society. Championing the weakest and most vulnerable members of the profession against whom the Law Society's unfettered, capricious and arbitrary power was being exercised in the most barbaric ways, Park J's judgment was monumental in its effect.

In the year after his judgment, there were only 2 interventions.

Although he did not know it, Park J had dismantled the Intervention Fraud from its very foundation.

Nor did Park J know that his judgment heralded the most seismic change the legal professional had seen in 150 years, since the days of Jinnah , Nehru and Gandhi, which not only would have paved the way for a fairer system of regulation for barristers and solicitors alike, but its effect would have rippled through all the higher professions as the first real step towards reversing the racial division, inequality, oppression and injustice which is increasingly disfiguring our society.

Park's judgment had to be obliterated, and obliterated it was.

Six months later, the Law Society's High Profile Litigation Committee granted funding to appeal against the High Court's decision. The Committee Members apparently only required an hour to read and consider Park's painstakingly drafted 40,000 word, 100 page judgment, the 20,000 page trial bundle, as well as the 6300 word, 21 page Advice by Timothy Dutton KC, a barrister who had not been involved in the 13 day High Court trial, and knew nothing about the case, knew nothing about solicitors' practices, knew nothing about the Account Rules, and knew nothing about intervention law, or apparently, any law.

In the High Court, the Law Society indicated its intention to appeal on public interest grounds. The following extract from Dutton's Fraudulent Advice discloses the Law Society's real reasons for appealing; and it has nothing to do with the public interest. In **Part 1D7** at **Page 1320- Page 1606** I show how Dutton's Fraudulent Advice was used as an instrument of fraud and money laundering.

A year later, in 2006, after the Court of Appeal produced its false judgment, the rate of interventions rose to its former level, where it has remained

4. This case has received widespread publicity, as it is the first case since *Yogarajah*[1] where the Law Society has lost a contested challenge to an intervention. It may be the first case ever where the Court has found that the primary ground for the exercise of the power of intervention, has not been established. The publicity has caused problems within the regulatory arm of the Law Society: challenges are made, for example, to the CCS' right to have correspondence answered or to contemplate the exercise the power of intervention. This may have been complicated by increasingly vigorous attempts by solicitors such as Ms Sheikh to challenge what had hitherto been straightforward regulatory decisions.

15. The result for the Law Society is a serious set back because:

(i) The Society may well be unable to advance the allegations of dishonesty against Ms Sheikh in SDT proceedings because the judge has made positive findings that she is not dishonest. This means that the issue is res judicata and/or that it is an abuse of process to ventillate before the SDT an allegation of dishonesty where the judge has already rejected it.

(ii) Ms Sheikh may be contemplating a claim for damages under paragraph 6(5) of Schedule 1 to the Act, which the Society will have to defend[2].

(iii) Other solicitors, and even the Society's own staff, may be placing ill-founded reliance upon the judgment, and

(iv) The Law Society has incurred significant costs, not just its own but now Ms Sheikh's.

7 150 BARRISTERS REFUSE TO ADMIT THEY HAVE BEEN MISADVISING THE LAW SOCIETY FOR LAST 30 YEARS

From the cases listed on the British and Irish Legal Information Institute (BAILLI) I have identified all the barristers who have acted in intervention challenge or in appeals from the decisions of the Solicitors Disciplinary Tribunal since 2000, both for and against the Law Society. I completed and published my material in July 2023 and for the last 8 weeks, I have been asking them to advise the Law Society on the following questions:

1) Did Parliament intend to re-enact the 1965 Act Schedule 1 Provisions in 1974?

2) Has Parliament enacted Version 1 of the Schedule Provisions, Version 2 or Version 3?

3) Are all interventions undertaken by the Law Society under its Fraudulent Intervention Procedure void and unlawful?

4) For the past 50 years have judges been determining the Solicitor's challenge to the intervention by way of the wrong application, containing the wrong wording, made in the wrong procedure, in interventions which have never taken place under provisions which Parliament has not knowingly enacted?

5) Are all Remuneration Certifications made by the Law Society where the Solicitor and the Client have entered into a fee agreement void and unlawful? **Part 1D1 Page 867** (Treverton Jones apparently did not know that the Burrows and Sills Adjudications were unlawful)

6) Do they agree that under the Stage 1 of Two Stage Process, the Court must uphold a Ground 1 Intervention (Dishonesty by Solicitor or Ors.) into a firm of black solicitors, if the Law Society has a truly held belief that all black solicitors are dishonest by virtue of their being black?

7) Do they accept that the Vesting Resolution cannot be served on the Solicitor in Ground 1 Interventions save where there is Mixed Money or Money Subject to Third Party Interests? **Part 2C5 Page 688- Page 695f**

8) The Law Society has a quasi judicial function. Appling Professor Oliver's definition of treason, is the Law Society guilty of treason by violating the Schedule 1 Provisions?

9) Is the Law Society's theft of *bona vacantia* from the Crown treason?

10) Has the Master of the Rolls' shoddy drafting of the Round Sum Transfer Rule **Summary Page 153-Page 157** caused suffering and loss to Solicitors purportedly intervened into for the alleged breach of the Round Sum Transfer Rule?

11) Is the Master of the Rolls responsible (because of his shoddy drafting) for the suicides of Solicitors who could endure no more?

Given the professional and financial implications which may be ruinous for some, it is unsurprising that not a single one of the 150 barristers has responded.

B WAS SCHEDULE 1 SLOPPY DRAFTING BY THE LAW LORDS, OR DID THE LAW LORDS DESIGN THE SCHEDULE FOR THE INTERVENTION FRAUD? DID THE INTERVENTION FRAUD START IN 1941 AND WHO IS BEHIND IT?

Schedule 1 of the Solicitor's Act 1974 is the infrastructure of the Intervention Fraud,

The premise of Part 2 is that Parliament was hoodwinked by the Law Society into enacting Schedule 1 and that the Judiciary have been hoodwinked by the Law Society into facilitating the fraud ever since. However, that is highly improbable.

The Law Society's Intervention Fraud, which has evaded detection for over half a century (for over 80 years if it started in 1941) is so ingenious in its simplicity, so audacious in its execution and so breathtaking in its scope that it surpasses the most famous frauds in history such as Ponzi, Enron and Barings and that means it could only have been masterminded by the most brilliant minds.

The following aspects of the fraud reveals the superlative genius behind it :

1) The Intervention Fraud is incomparably efficient. It is achieved in a single moment of time using a single word written on a single page.

2) There is no one to challenge Intervention Fraud because it comprehensively destroys its Victim. He faces abuses and injustice which most ordinary professionals would find torturous and he suffers the level of financial loss which immiserates him. How many Victims would be able to confront their torturer?

3) The Intervention Fraud requires knowledge and understanding of intervention law which no solicitor, barrister and judge has and cannot acquire without applying a great deal of time and effort. There are only two lawyers in the UK, if not in the world, who have the capacity to understand it at their fingertips, namely Timothy Dutton KC and Gregory Treverton Jones KC, but as they the main beneficiaries of the fraud, they are certainly not going to do anything to risk its continuation.

4) The Two Stage Process **Page 238-254** which has been applied by the judiciary to determine the Solicitor's challenge since the 1980s makes it impossible for the fraud to be dismantled.

5) Although in theory the Law Society could terminate all 11,000 solicitors practices in England and Wales in the time it takes to transmit 11,000 Vesting Resolutions and to strip all 200,000 solicitors of their right to practice, the Law Society targets a sufficiently small number of Solicitors so as to hide the fraud from the public and the profession.

Who could the originators of the Intervention Fraud have been?

The figures involved in the 1972-1974 Parliamentary Debates included Lord Gardiner, the Lord High Chancellor of Great Britain 1964 –1970 (Magdalen, Oxford), Lord Elwin Jones, Attorney General 1964 – 1970 Lord High Chancellor of Great Britain 1974-1979**,** (University of Wales, Aberystwyth Gonville and Caius College, Cambridge), Lord Hailsham of Saint Marylebone, Shadow Home Secretary 1966-1970 Lord Chancellor 1970 – 1974, Lord

Stow Hill Home Secretary 1965-1966(Balliol College, Oxford) Lord Denning , Master of the Rolls (Magdalen College, Oxford) Lord Janner Trinity Hall, Cambridge Harvard Law School , Lord Cornesford, Lord Douglas of Barloch, Viscount Brentford, Sir Geoffrey Howe, Solicitor General 1970-1972.Lord Tangley, a Solicitor.

There are only three explanations:

Were the Law Lords and the Government the architects of the Intervention Fraud?

1) The Law Lords at the time were men of exceptional intellectual prowess whose reputations are commemorated in legal history. If they were the real masterminds behind a fraud which has been perpetrated undetected for 50 -80 years, it would also explain why the Intervention Fraud cannot be understood by their counterparts today: Baroness Hallett, Lord Dyson, Sir John Chadwick , Sir Martin Moore Bick, Lord Tuckey in the Court of Appeal in Sheikh v The Law Society (2006) , Lord Bingham, Lord Carswell, Lord Rodgers in the House of Lords in Sheikh v The Law Society (2007), Sir Nicholas Braza, President of the Fourth Section of the European Court of Human Rights in Sheikh v the UK Government (2010) and Lord Slynn (on a private referral).

   In 2011, I asked the Supreme Court to substitute the arguments set out here for the Grounds of Appeal submitted to the House of Lords in 2007 by my former legal team, Hugo Page KC, Jonathan Harvie KC and Philip Engelman. The Supreme Court found the Intervention Fraud, with all its implications for Solicitors, their Clients and the public, so abstruse that its response was that the Court could not consider my application because the House of Lords' reference number for the case could not be traced.

   If the Law Lords were behind the fraud in 1974, the question which obviously arises is how many other statutes have been enacted by Parliament for nefarious motives.

Could the Law Lords and the Government really have been so stupid as not to have realised that Schedule 1 made no sense?

2) If the Law Lords and the Government were not behind the fraud, it has to be explained how these notables, the most distinguished lawyers of the 20th century, were guilty of such egregious stupidity that they debated matters in Parliament without knowing what they were talking about, they enacted provisions which made no sense, they enacted the 1974 Act Schedule 1 Provisions mistakenly believing that they were enacting the 1965 Act Schedule 1, and they unwittingly enacted a statute which could and would be used for the next half century to commit theft, including the theft of *bona vacantia* from the Crown, fraud and what would later be called money laundering.

Could the Law Lords and the Government have been bribed, blackmailed or terrorised into enacting Schedule 1

3) The third possibility is that these men were influenced by others. The question then is who were those others?

C DOCUMENTS

The documents are:

1. An impeachment petition and application to set aside all interventions under the Law Society's Fraudulent Intervention Procedure

2. Letter to King Charles III and to Parliament ('the Letter')

3. Summary

4. Part 1- How the Intervention Fraud was masterminded by Parliament and the Judiciary, and how the Law Society and the Judiciary have perpetrated it for half a century

5. Part 2 - An Analysis of the evolution of Schedule 1 of the Solicitors Act since 1941

The material can be found on my website 'The Law Society's Intervention Fraud' accessible via the link https://www.thelawsocietysinterventionfraud.com/

The Detailed Contents Lists provided for each document not only assists navigating it, but can serve as a substitute for reading it.

Suggested reading is as follows:

SUGGESTED READING IN THE INTERVENTION FRAUD	
Impeachment Petition	A list of all recorded Intervention challenges undertaken under the wrong procedure identifying the barristers and solicitors involved is at **Page 3-4.** The impeachments are at **Page 5.** The proposed criminal prosecutions are at **Page 57-71.** For a history of the fraudulent civil restraint orders made against me and my mother see **Page 82-85**
The Letter	**Page 1-14** A summary of the Intervention Fraud for the benefit of His Majesty and Parliament in which I report to His Majesty the Law Society's theft of *bona vacantia* **Page 22 -24,** The circumstances in which I believe I will be imprisoned. **Page 32-42** , The questions put to the Governor of the Bank of England, the Law Society and 150 expert barristers. **Page 48-51** Constitutional issues
Summary	**Page 1-7-** The Intervention Fraud described one of the most imbecilic frauds conceivable. **Page 13-21 -** A summary of what happened after the High Court case . I also show that Lord Burnett would like to imprison me for disclosing these matters. **Page 22-32**- The Intervention Fraud as a State Crime **Page 88-180 -**Why I argue that the architects of the Intervention Fraud had to have been Parliament and the Judiciary

Part 2C	**Page 383-1112** is a comprehensive analysis of Schedule 1 and a comparison between the Law Intervention Procedure and the Law Society's Fraudulent Procedure. Parts of it are reproduced elsewhere for convenience of reading.
Part 1A	Please view **Page 1-10** where I exhibit evidence of the experiences of other solicitors: Ranee Basee, found hanging from the ceiling beams of her office; Lawrence Mann who shot his brains out; Solicitor A ' They have scary Gestapo like powers' Solicitor C, whose house was raided; Solicitor D who was told to have an accountancy investigation against Barnecutt , Chairman of the Solicitors Disciplinary Tribunal, or 'his family would pay'; Solicitor E, who was imprisoned for contempt while applying to set aside for a fraudulent civil restraint order which had been made behind his back because he had shown certain document 'saying let's get the black man and use the white man's evidence against him' to his solicitor ; Baxendale Walker's tape recordings of Isaacs, Chairman of the Solicitors Disciplinary Tribunal saying ' We can do anything at the SDT; the torture of my late mother.
Part 1B1	**Page 143-202**, The calculation of the money stolen in the Intervention Fraud
Page 1B2	**Page 203-292.** The argument that the judiciary has been determining the wrong application with the wrong wording within the wrong procedure under statutory provisions which Parliament has not knowingly enacted. This is duplication of Part 2C.
Part 1B3	**Page 293-376.** The High Court case and why I say that Treverton Jones KC, Radcliffes and the Law Society had agreed to 'fix' the case so I would lose. The events after the hearing.
Part 1B5	The State's responses in the main concerning the Red River Conveyancing and Mortgage Fraud referred to below but also in relation to the Law Society's Intervention Fraud. Some are exhibited or described in **Part 1 B5 Page 690-Page 859** such as those from Bob Blackman MP **Page 696,** Dominic Grieve MP KC Attorney General **Page 697 Petition Page 50** Barry Gardiner MP **Page 699-Page 702**, **Page 707,** Kathryn Stone OBE Commissioner for Parliamentary Standards **Page 725** Bob Neill MP, Chair of the Justice Committee **Page 729,** Economic Crime Department of the City of London Police **Page 764** and **Page 775,** Thames Valley Constabulary **Page 765**, Baroness Scotland, former Attorney General, and Dame Vera Baird, former Solicitor General **Page 766 -769**, Metropolitan Police **Page 770**, Serious Fraud Office **Page 770-Page 774** John Penrose, UK's Champion of Corruption and Kenneth Clarke UK's Champion of Corruption Sir John Vince Cable Secretary of State for Business, Innovation and Skills 2010-2015 **Petition Page 50,** Kenneth Clarke UK's Anti-*Corruption Champion* (2010 to 2014) and John Penrose UK's Anti-*Corruption Champion* MP (2017 to 2022) **Petition Page 79 ,** Kenneth Clarke as Secretary of State for Justice (2010–2012), **Petition Page 79**
Part 1D1-1D2	**Page 860-1034-** The argument the Adjudications are Investigations are bogus having the purpose of enabling the Law Society to steal documents and information from the Solicitor to mount a sham case against him. How otherwise would they be able to do it? I argue your Lordship was unwittingly used to facilitate the Fraudulent Intervention against me.

Part 1D2 – 1D6	These parts deal with case specific matters. His Lordship is to read **Page 1095- 1149**, where he will see evidence of the perjuries and forgeries in the High Court trial – and these are only some of them.
Part 1D7	**Page 1453-1606** – This is an analysis of Timothy Dutton's Fraudulent Advice to the Law Society's High Profile Litigation Committee and why I say there was no Committee
Part 1D8	**Page 1607- 1762 .** These are the seven attempts to steal the £254,000 Sheikh-NRAM Remortgage Monies , the last being by Treverton Jones and Paul Saffron. Paul Saffron succeeded in stealing the money and was imprisoined.
Part 1D9	**Page 1763-1777** shows how the case of Ahmed & Co, Biebuyck Solicitors, Dixon & Co & Ors, Re Solicitors Act 1974 [2006] EWHC (Dutton KC and Patricia Robertson acting) used to launder the proceeds stolen in Fraudulent Interventions. The case considered 60 interventions . Collins J provided that the Law Society could also apply untraceable residual balances, then standing at £55m, towards its legal costs (i,e Dutton's and Robertson's costs). The money would have included bona vacantia. **Page 1777-1813** are all the cases in which interventions have been undertaken under the Law Society's Fraudulent Intervention Procedure.
Part 1E	This part contains the legal framework for torture and a description of the torture techniques used by the Law Society and the Judiciary. The part is incomplete.

D DAWN OLIVER, EMERITUS PROFESSOR OF CONSTITUTIONAL LAW , UNIVERSITY COLLEGE LONDON. THE DEFINITION OF TREASON.

The law of treason is at **Part 1A Page 143-152**

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

E BANKING

1 CAN BANKS HAND THE CUSTOMER'S MONEY TO A THIRD PARTY WITHOUT A COURT ORDER? Q1-Q6

When it intervenes into a Solicitor's practice, the Law Society sends the following documents by facsimile first to the Solicitor's Banks and later to the Solicitor

1) The Vesting Resolution shown at **Page 64**

2) A request to the Bank to transfer the Solicitor's Banked Money to its agents **Page 65-66.** The Bank complies with the request notwithstanding that Para 6(6) of Schedule 1 Part II of the Solicitors Act 1974 makes it a criminal offence for a person served with the Vesting Resolution to pay out money to anyone. Parliament did not except the Law Society.

1. Will the State say whether it is lawful for a UK bank to freeze a customer's bank account and to transfer the customer's money to an unconnected third party without the customer's instruction, approval or knowledge, upon receiving a mere request from that third party ? Doesn't the bank need to see a court order? How would the third party making the request even pass the Banks' security checks?

2. If a bank can freeze a customer's bank account and can transfer the customer's money to an unconnected third party without a court order, will the State say whether anyone make a request to the customer's bank or is it only the Law Society who has that power? Can I make the request? What if the party shown at **Page 67-68** were to make the request? Would the Banks comply?

3. The UK's banking industry is worth 16.7 trillion U.S. dollars. What are the consequences for the UK and for the rest of the world if UK Banks, including the Bank of England

   1) do not know whether a court order is needed to freeze a customer's bank account and have the customer's money transferred to an unconnected party, or

   2) do not know what is and what is not a court order?

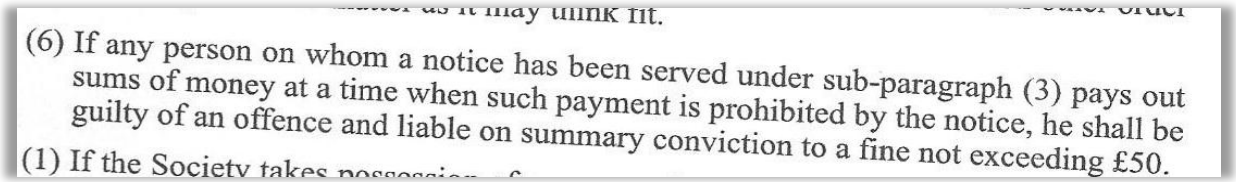
4. Where Banks have transferred the Solicitor Customer's money to the Law Society without a court order

   1) Will the Judiciary order the Banks to restore their Client and Office Accounts to the Solicitor and to compensate Solicitors for their losses? There are obviously going to be problems where the Solicitor is deceased, or is no longer a solicitor, or where the Law Society has already paid out money to Clients from the accounts; but these are the problems for the Law Society, not for the Banks?

2) Will the Judiciary order the Executive to restore to their Client and Office Accounts to the Solicitor and to compensate Solicitors for their losses?

3) If the Judiciary will not do 1) or 2), will it order the Government to provide reparation or compensation to the Solicitor?

5. The Solicitors Act 1974 Schedule 1 Part II Para 6 (6) states:



matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(1) If the Society takes possession of

There are 164 businesses considered to b e banks by the Prudential Regulation Authority. On the following assumptions every one is guilty of having committed Para 6(6) Offences

TABLE SHOWING ESTIMATED NUMBER OF PARA 6(6) OFFENCES

Assumptions	No of interventions per year 100	400
Number of Para 6(6) Offences committed by Banks per year assuming each Solicitor's Practice holds 20 accounts	2,000	8,000
Number of Para 6(6) Offences committed by Banks from 1974-2024	100,000	400,000
Average number of Para 6(6) Offences committed per Bank per year assuming each Solicitor's Practice banks with 5 different banks	12	49
Average number of Para 6(6) Offences committed per Bank assuming each Solicitor's Practice banks with 5 different banks from 1974-2024	609	2439

6. Despite having being made aware of these matters by me over 10 years ago, no law enforcement agency including the FCA, the Prudential Authority, the Bank of England, the Serious Fraud Office, the Solicitor General or the Attorney General has prosecuted any accountable banker. On 30 August 2023, I referred the matter to the Committee Members of the Human Rights Select Committee, the Justice and Home Affairs Committees, the Justice Committee and the Treasury Select Committee. To date nothing has been heard from them . If past violations of Para 6 (6) are not punished, and violations of Para 6 (6) continue does that show that

1) The Executive bodies of the Treasury and the Law Society do not acknowledge Parliamentary Sovereignty?
2) UK's Law Enforcement Agencies do not acknowledge Parliamentary Sovereignty?
3) The Judiciary does not recognise Parliamentary Sovereignty?
4) The Legislature does not recognise Parliamentary Sovereignty?
5) Applying Professor Dawn Oliver's definition of treason, are they all guilty of committing treason?

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. 047
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.

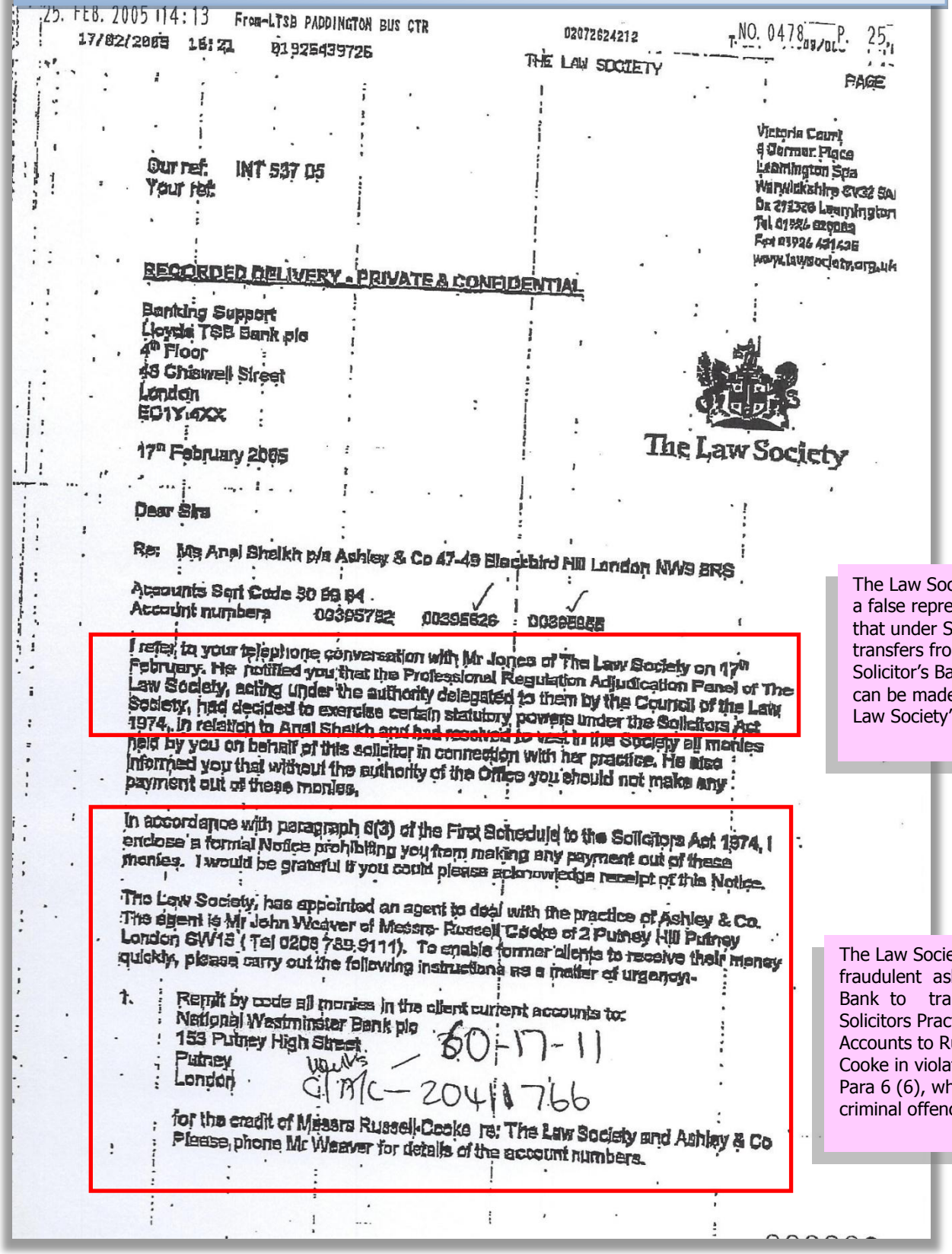
ACCORDINGLY the powers conferred by Part II of the said Schedule have become exercisable in relation to the practice of Ashley & Co and the monies referred to in paragraph 6(2)(a) of the Schedule and the right to recover or receive them have vested in the Law Society (whether such monies were or are 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 Ponsford
Manager Intervention & Disciplinary Unit

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



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 27326 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

17th February 2005

The Law Society

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 00395782 00395626 00396865

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
CTRC-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 16:21 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) NOTICE PROHIBITING PAYMENT OUT TO BANK (ADAPTED)

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)

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 p/a Ashley & Co 47-49 Blackbird Hill Lor

Accounts Sort Code 30 99 64
Account numbers 00395782 00395626 00395858

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
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 HAVE THE EXECUTIVE (THE TREASURY AND THE LAW SOCIETY) AND THE JUDICIARY BEEN STEALING BONA VACANTIA FROM THE CROWN SINCE 1974 WITH THE LEGISLATURE AND THE ATTORNEY GENERAL TURNING A BLIND EYE?

Where a person dies without a will, under the law of intestacy, his estate passes to certain relatives and if there are none, the estate passes to the Crown as *bona vacantia* .

Of the untraceable client funds held by Solicitors, part will inevitably belong to intestates and ultimately to the Crown.

In Ahmed & Co, Biebuyck, Dixon & Co and the practices of Mr Zoi and In the Matter of Sections 35 and 36 and Schedules 1 and 2 of The Solicitors Act 1974 and In the Matter of the Law Society Compensation Fund Rules 1995 (2009), ('the Compensation Fund Case') Collins J found that the Law Society was entitled to apply untraceable residual balances, which at the time stood at £11.6m, which included *bona vacantia* , towards its legal costs.

In August 2011, I delivered some files to the Treasury including accounting material and the Compensation Fund Case. There were about 2000 pages of highly complex calculations which had taken over a year to compile .A day or so later I telephoned to check the papers had been safely received . The following is a transcription my conversation with Mr. Zane Denton , the Head of the *Bona Vacantia* at the Treasury Solicitor, the appointed agents of the Crown.

Anal Sheikh to Zane Danton , Treasury Solicitor
Call 18th August 2011. Time 17.05

AS I left you a message earlier this afternoon when you were at a meeting . May I ask you if you have received and read the material I have sent you

ZD Nothing in the material causes any concern

AS Can I ask you what you have read

ZD I only act for the Government . The Government has instructed me to do nothing. What would you like me to do

AS Read and think

ZD I have read the papers., Nothing gives me any rise for concern .

AS How could you know that. Those who are concerned are dead. How they give you instructions.

ZD I am instructed by the Government

AS Are you a lawyer

ZD I am not going to tell you / I don't want to continue with this call My client has told me to do nothing . I have read everything

AS I'm so sorry it has taken me a about a year to analyse. Can you tell me what you have understood in the last 7 days in relation to what I have sent?

ZD I am going to terminate this call

AS Who is your superior ?

ZD You are being abusive and I will not continue this conversation

AS What have I said that is abusive ?

ZD I will not continue this call

AS Will you record this call

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

The sum must be higher because *bona vacantia* will also be included in the Solicitor's Money stolen by the Law Society (calculated at £600m (over 10 years)) where the Solicitor has died intestate without entitled relatives. The calculations are shown in Part C of the Table on **Page 21-22** . These are only provided as a estimate and illustration. No one can know the actual figures.

7. Are the Executive (Treasury and the Law Society) the Judiciary and the Legislature guilty of stealing bona vacantia from the Crown? If so, are they guilty of committing treason?

3 IS THE LEGISLATURE AWARE THAT IT HAS CONFERRED MORE POWER UPON A LAW SOCIETY CASEWORKER THAN IS POSSESSED BY THE MOST POWERFUL NATIONS ON EARTH ?

8. Will the State respond to the above question?

A bank freezing order is a court injunction which prevents a person from accessing or disposing of the money in his bank account before a judgement has been made against him. In a debt claim a freezing order may be made against the Debtor, or in a matrimonial case a freezing order can made be granted to the Wife to prevent the Husband from dissipating money which may be a matrimonial asset. At the conclusion of proceedings, the Debtor may be found not to be liable for the debt, and Wife may be found not to be entitled to any of the Husband's money, in which case the interim freezing order will be discharged.

In these examples

1) A court order is needed to freeze the bank account

2) The money in the frozen bank account is not immediately transferred to the Creditor or to the Wife. They have to wait for the outcome of the case.

Under the Anti-Terrorism, Crime and Security Act 2001, HM Treasury has the power to issue a freezing order in respect of individuals, entities or organisations outside of the UK where there is reasonable belief that they have taken or are likely to take action which is

1) to the detriment of the UK economy
2) a threat to the life or property of one or more nationals or residents of the UK

Under the Terrorist Asset-Freezing etc. Act 2010 , HM Treasury has the power to freeze the *assets* of individuals and groups thought to be involved in *terrorism*, whether in the UK or abroad The designated persons on the UK's current Terrorist Asset Freezing Order list include members and supports of ISIS

Under the Sanctions and Anti-Money Laundering Act 2018, the UK Government has the power to freeze bank accounts as a financial sanction as provided for in the Act:

> Power to make sanctions regulations'
>
> (1) An appropriate Minister may make sanctions regulations where that Minister considers that it is appropriate to make the regulations—
> (a) for the purposes of compliance with a UN obligation,
> (b) for the purposes of compliance with any other international obligation, or
> (c) for a purpose within subsection (2).
> (2) A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would—
> (a) further the prevention of terrorism, in the United Kingdom or elsewhere,
> (b) be in the interests of national security,
> (c) be in the interests of international peace and security,
> (d) further a foreign policy objective of the government of the United Kingdom,
> (e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,
> (f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote—
> (i) compliance with international human rights law, or
> (ii) respect for human rights,
> (g) promote compliance with international humanitarian law,
> (h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or
> (i) promote respect for democracy, the rule of law and good governance.

The persons on the UK's current sanctions list include high level Taliban and North Korean operatives and Russian Oligarchs.

In none of these cases is the person's banked money, frozen by a court order under the statutory provision, immediately transferred to the Treasury or to the Treasury's Solicitors.

The Law Society on the other hand considers that Para 6 (1) of Schedule 1 Part II of the 1974 Act confers upon it the right to freeze the Solicitor's Bank Accounts without a court order and to be entitled to call upon the Bank to immediately transfer to it, or to its solicitors, the entirety of the Solicitor's Banked Money. The Banks and the Court apparently agree.

In the Sheikh 2005 Intervention , the Law Society's claimed power was invoked under Ground 1; all my Practice Money and Personal Money was transferred to Russell Cooke because , as it later transpired, I had transferred money from Client to Office Account in sums which ended with a zero (the Round Sum Transfer Allegation).

4 IS THE LEGISLATURE AWARE THAT IT HAS GIVEN THE EXECUTIVE (THE LAW SOCIETY) AND THE JUDICARY THE THEORETICAL, IF NOT THE ACTUAL, POWER TO GAIN CONTROL OF A SUBSTANTIAL PART OF ALL THE BANKED MONEY IN THE WORLD?

9. The amount of banked money in the world is estimated to be about 183 trillion U.S. dollars

I was a sole practitioner. At the date of the 2005 Fraudulent Intervention, I held funds of about £500,000. A medium sized firm might hold £10m - £20m . The largest firms in England and Wales probably hold in excess of £1bn.

My clients were local residents and businesses. The largest firms represent the richest and the most powerful people and organisations in the world, and their turnover exceeds billions of pounds per year. Their hundreds of thousands of clients might include National and International Corporations, Foreign Nationals, Nation States, the UK Government and overseas Monarchs.

Many millions of financial transactions and enterprises are being undertaken in solicitors' offices every minute of every hour of every day, from buying and selling of ordinary houses in the domestic market to complex dealings on the international stage on behalf of the largest conglomerates on Earth.

The money involved is held by the Solicitor in his Client Account over which he and the Client must have absolute and unfettered control.

If the Law Society's closure of law firms on the back of the Para 6 (1) Vesting Resolution is lawful, the responsibility and authority for these transactions, which often depend on the Solicitor's unique skill and expertise , might very well end up in the hands of the Law Society's staff, many of whom have no legal training, or academic or professional qualification.

The problem does not end there.

Transfers are made from the Solicitor's Bank Accounts continually during banking hours. What happens if payments are made after the Para 6 (1) Vesting Resolution is sent to the Solicitor's Bank?

Under Lloyds TSB v Anal Sheikh (1) (2) Barclays Bank the Bank can obtain a without notice freezing order over the transferee's account ("the First Transferees' Account'), and if the money is moved from the First Transferee to another account ('the Second Transferees' Account) before the freezing order is made, under Lloyds TSB v Anal Sheikh (1) Rabia Sheikh (2) Barclays Bank PLC the Second

Transferee's Accounts can also be frozen on a without notice application. **1D8 Page 1607-1762** and **2C5 Page 1109**

The precedents established by these case make the following scenarios possible:

DESCRIPTION	ACCOUNTS WHICH CAN BE FROZEN ON A WITHOUT NOTICE APPLICATION
Solicitor transmits money to a client (In my case I transmitted the NRAM Remortgage Proceeds to my account . I was my firm's client)	The Law Society can freeze the Client's bank account. The client could be an ordinary individual , a National and International Corporation ,a Nation State , an overseas monarch or the wealthiest individual the world.
Solicitor redeems a mortgage	The Law Society can freeze the Mortgagee's Bank Account
Solicitor sends a land registration fee to HMLR	The Law Society can freeze HM Land Registry's bank account
Solicitor pays court fees	The Law Society can freeze the bank account of HM Courts Service
Solicitor pays his suppliers	The Law Society can freeze the bank accounts of British Telecom, Sky, Virgin, British Gas etc
Solicitor pays a barrister	The Law Society can freeze the barrister's bank account
Solicitor pays his business rates	The Law Society can freeze the Local Authority's bank account
Solicitor pays his childrens' school or university fees	The Law Society can freeze the bank accounts of Rugby , Winchester. Oxford, Cambridge or any school or university in England and Wales or abroad
Solicitor pays for a family holiday	The Law Society can freeze the bank account of British Airways or other airline carrier
Solicitor pays his staff	The Law Society can freeze the staff's bank accounts
Solicitor donates monthly payments to charities	The Law Society can freeze the bank accounts of the Oxfam, Doctors Without Borders, Children in Need etc
Solicitor pays his income tax, NIC or PAYE	The Law Society can freeze the bank accounts of HM Revenue and Customs
The bank account holders listed above transmit money to other bank accounts	The Law Society can freeze the bank accounts of the recipients

While I have dealt with Fraudulent Interventions in the case of sole practitioners and small partnerships, the fact is that the largest, wealthiest and most powerful law firms in England and Wales and be intervened into under the Law Society's Fraudulent Intervention Procedure (at least theoretically).

There are about 10,500 law firms in England and Wales. What would happen if the Law Society intervened into every one of them on the same day? In a matter of a few minutes, the bank accounts

of all 10,500 firms would be frozen and all the money in the accounts would be transferred to the Law Society or to Russell Cooke ; all that is apparently required is a faxed letter from the Law Society .

From the above scenarios , a financial analyst could make the following calculations:

1) How long it would take for the Law Society to control all of the UK's Bank Deposits (which could be sent to a enemy nation or to any international terrorist)

2) Whether the Law Society could in theory ultimately control all the banked money in the world and if so, how long it would take.

The response will obviously be to say ' *This can't possibly happen; surely the Law Society only take these draconian measures if there is something terribly wrong in the solicitor's firm?*

Not at all : in **Part 1D2 Page 980-982, Page 1039-1145** (the Round Sum Transfer Allegation) a firm can be intervened into if the Solicitor transfers costs which end in a zero or which has 'lots of noughts'

F THE SOLICITORS ACTS OF 1941, 1957, 1965 AND 1974

1 1941 ACT

Those involved in the 1939-1941 Parliamentary Debates included Lord Wright of Durley Master of the Rolls 1935- 1937 (Trinity, Cambridge) , the Viscount Simon Chancellor of the Exchequer (Balliol, Oxford) , Lord Bancroft (Balliol Oxford).

10. Was Parliament confused about the Document Production Procedure? Did Parliament believe that the purpose of the procedure was to give the Law Society the opportunity to examine the Solicitor's Documents to discover whether the Solicitor was honest or dishonest and whether it should intervene or not , or did Parliament believe that the Document Production was the intervention i.e. the closure of the law practice? **Part 2A Page 8-9 , Part 2B2 Page 304-305**

2 1957 ACT

11. Did Parliament believe that an intervention was not the closure of a law firm and the restriction on the Solicitor's right to practice, but only the removal of certain files from the Solicitor **Part 2B2 Page 313**

12. Was the representation made to Parliament that the Bill was consolidated legislation, which meant that the amendments were not debated, false and misleading. **Part 2B2 Page 308**

13. What are the consequence of the fact that no one could see the significance of the amendments to the 1941 Act?

3 1965 ACT

14. With the exception of the amendment to Para 3, which was inconsequential, were any of the amendments to the 1957 Act debated? **Part 2B3 Page 315**

15. Was Parliament still confused about the Document Production Procedure in 1965? Did Parliament believe that the purpose of the procedure was to give the Law Society the opportunity to examine the Solicitor's Documents to discover whether he was honest or dishonest and whether it should intervene or not , or did Parliament believe that the Document Production was the intervention i.e. the closure of the law practice? **Part 2B3 Pages 316, 327 ,333, Page 342 -343 Page 345-350**

16. Did Parliament believe that an intervention did not mean the closure of a law firm and the restriction on the Solicitor's right to practice, but only the right to remove certain files from the Solicitor, **Part 2B3 Page 334**

17. Was the 1965 Act Vesting Resolution Procedure concerned only with the interests of the Para 10 Third Parties, and not the substantive rights of the Solicitor, **Part 2B3 Page 369-375**

18. Could the 1965 Act Vesting Resolution Procedure be manipulated by the Law Society to deprive the Solicitor of his right to any substantive trial **Part 2B3 Page 376-377**

19. Why did Parliament confine the entire debate to Para 3 (Service of the Documents List) when there were far more significant matters to consider? **Part 2B3 Page 377**

20. Did Parliament understand that the 1957 Act Grounds had changed **Part 2B3 Page 378**

21. Was it rational for Parliament to provide that a solicitor who had been struck off after a trial had 21 days to sell his Practice, but a Solicitor whom the Law Society had reasonable cause to believe had been dishonest without a trial did not have that right **Part 2B3 Page 379**

22. Ground 3 was only concerned with 'certain money and certain documents' . Does that mean that an intervention would be different in every case? **Part 2B3 Page 379-380**

23. Does Ground 3 show that Parliament did not understand anything about Solicitors' banking practices **Part 2B3 Page 380-381**

24. Did Parliament think that part only of a bank account could be frozen **Part 2C3 Page 539**

25. Did Parliament think that Solicitors had separate bank accounts for each individual client and not one account in which all client money was deposited, so if a Solicitor's practice had 100,000 clients, it would have 100,000 different accounts **Part 2C3 Page 540**

26. Why does Parliament disparage all Solicitors who were intervened upon? Not all are dishonest: some would have been guilty of nothing more than dying, being made bankrupt or being mentally ill. Was Parliament unaware that the 1957 Act Grounds had changed? **Part 2C3 Page 540-541**

27. What would happen if the beneficial owner did not consent to the transfer of money under the 1965 Act Non Vesting Resolution Procedure? Was Parliament aware that that meant that Clients could insist that a solicitor found to be dishonest and intervened upon could continue to hold on to their money **Part 2B3 Page 381-382**

4 1974 ACT.

The 1974 Act saw the change from the 1965 Act Non Vesting Resolution to the 1974 Act Vesting Resolution which was the most far reaching change in the Law Society's intervention powers since 1941 and (according to the Law Society) enables it to terminate law firms with a single sheet of paper.

Those involved in the 1972-1974 Parliamentary Debates included Lord Gardiner, the Lord High Chancellor of Great Britain 1964 –1970 (Magdalen, Oxford), Lord Elwin Jones, Attorney General 1964 – 1970 Lord High Chancellor of Great Britain 1974-1979**,** (University of Wales, Aberystwyth Gonville and Caius College, Cambridge), Lord Hailsham of Saint Marylebone, Shadow Home Secretary 1966-1970 Lord Chancellor 1970 – 1974, Lord Stow Hill Home Secretary 1965-1966(Balliol College, Oxford) Lord Denning , Master of the Rolls (Magdalen College, Oxford) Lord Janner Trinity Hall, Cambridge Harvard Law School , Lord Cornesford, Lord Douglas of Barloch, Viscount Brentford, Sir Geoffrey Howe, Solicitor General 1970-1972.Lord Tangley, a Solicitor.

28. Was the representation made to Parliament that the Bill was a Consolidation Bill false and misleading? **Part 2A Page 112**

29. Was Parliament aware that, by basing the 1974 Act Schedule 1 Provisions on the 1965 Act Schedule 1 Provisions which were themselves seriously flawed **Part 2B3 Page 375-382,** the 1974 Act Schedule 1 Provisions would also be seriously flawed?

30. Parliament was apparently unaware of 21 differences between the 1965 Act Schedule 1 Provisions and the 1974 Act Schedule 1 Provisions **Part 2C3 Page 505-520.** What are the implications of that oversight?

31. Why was there no mention of any proposed amendments to the intervention provisions in the Minutes of the Law Society's Council Coordinating Committee Meeting from 16 March 1972-23 July 19974 sent to the Lord Chancellor's office. **Part 2C4 Page 611 – Page 644**

32. Was Parliament oblivious of the meaning and effect of 1974 Act Vesting Resolution **Part 2C3 Page 460-468**

33. Did Parliament believe that the 1974 Act Grounds were the same as the 1941 Act Grounds? **Part 2C3 Page 468-474**

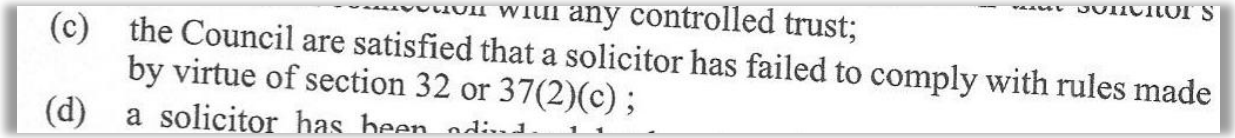
34. 1941-1974 Acts and AJA 1985. Has Parliament ever known what an intervention is, and understood how it takes place? **Part 2C3 Page 412- 417, Page 474- 481**

35. Has Parliament ever deliberated or debated the intervention procedure other than in relation to the Documents Production Procedure from 1941 -1985 **Part 2C3 Page 412- 460**

36. If the 1957, 1965 and 1974 Acts were introduced as Consolidated legislation, have the 1974 Act Schedule 1 Intervention Provisions ever even been considered by Parliament? Does Parliament know it has enacted them?

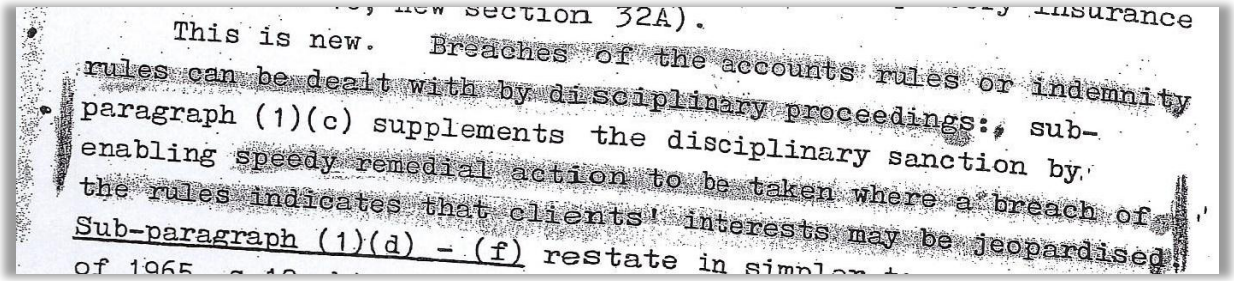
37. Did Parliament deliberately and surreptitiously enlarge the 1974 Act Grounds and widen the Intervention Powers **Summary Page 103- 107**

38. In relation to Account Rule Breaches the 1971-1972 Parliamentary Records show that the intention was that Solicitors' Account Rules breaches would not *per se* constitute Grounds for Intervention; such breaches would only be grounds for intervention if 'clients' interests (sic were) jeopardised'. Why was that qualification omitted ?



(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;

(d) a solicitor has been



new section 32A).

This is new. Breaches of the accounts rules or indemnity rules can be dealt with by disciplinary proceedings; sub-paragraph (1)(c) supplements the disciplinary sanction by enabling speedy remedial action to be taken where a breach of the rules indicates that clients' interests may be jeopardised. Sub-paragraph (1)(d) - (f) restate in simpler

39. Ground 3 makes no sense. It means that a Solicitor who does not, say, transfer his costs within 14 days (my case) can be closed down. Did it make no sense, because Parliament did not care whether the Schedule made sense or not?

40. The 1971-1972 Parliamentary Records also shows that under Ground 3 (Account Rules Breaches) it was intended that the Solicitor be given the same prior notification to enable him to provide an explanation as in Ground 8 (No Explanation for Delay).

those powers.

Sub-paragraph (2) is new. It provides that the Part II powers cannot be exercised on the grounds that the Society are satisfied of a breach of the accounts rules or indemnity rules (sub-paragraph (1)(c)) unless the solicitor is notified of that fact and of the fact that the powers are exercisable. (It is thought necessary that in this particular case the solicitor should be informed of the Society's view, so that he may have the opportunity to provide an explanation of his apparent failure before the Part II powers are exercised. It is the Society's normal administrative practice to notify solicitors that Part II powers are exercisable, unless such notification would frustrate their operation. In this particular case the wording of sub-paragraph(2) ensures that the notice of failure to comply and the notice that the powers are exercisable can be given simultaneously).

Paragraph 2 is new.

The proviso in relation to Ground 8 was reflected in Para 3:

The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3), where—

(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.

(1) Where the

Para 2 purports to reflect the corresponding proviso in relation to Ground 3. It falls short in that, although notification is given, the Solicitor is not given the chance to provide an explanation:

solicitor has been suspended from practice.

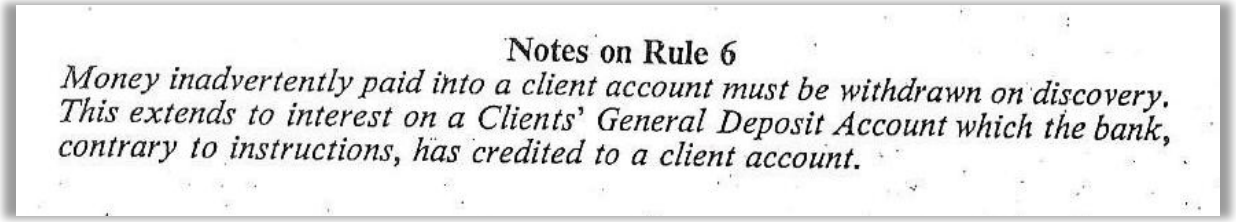
(2) The powers conferred by Part II of this Schedule shall only be exercisable under sub-paragraph (1)(c) if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

2 On the death of a sole solicitor

What were the reasons for these discrepancies? What are the implications?

41. Was Parliament aware that Para 1(1) (2) and Para 2 derogated from Solicitors Accounts Rules 1967 Rule 6 and general accounting principles. Book keeping is an administrative process in which, even with the benefit of computerisation, the making and correcting of mistakes is not only inevitable or even commonplace; it is the process. Never to have made a mistake which requires correction would be an impossible achievement.

The Solicitors Account Rules 1967 makes provision for the making of mistakes. The Rules provide that they can be corrected.



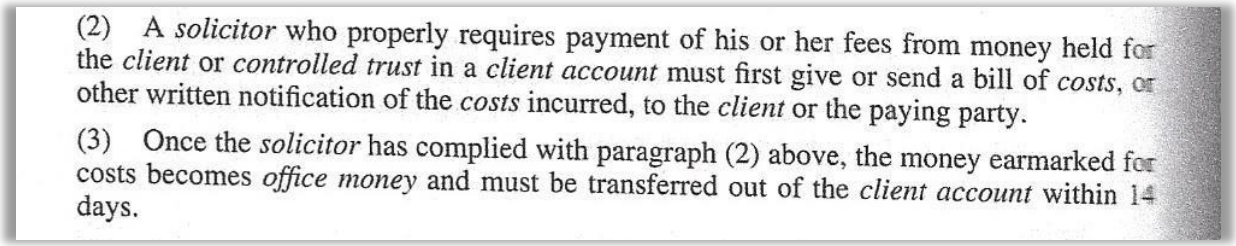
Notes on Rule 6

Money inadvertently paid into a client account must be withdrawn on discovery. This extends to interest on a Clients' General Deposit Account which the bank, contrary to instructions, has credited to a client account.

Para 1(1)(2) and Para 2 make no such concession

42. Was Parliament aware that Ground 3 means that a firm must be intervened into if costs billed to client are £5000, but costs transferred are £4999 leaving 10p in client account. My practice of batch posting which I describe at **Part 1D4 Page 1050- Page 1053**

Rule 19 (3) provides that costs must be transferred within 14 days.



(2) A *solicitor* who properly requires payment of his or her fees from money held for the *client* or *controlled trust* in a *client account* must first give or send a bill of *costs*, or other written notification of the *costs* incurred, to the *client* or the paying party.

(3) Once the *solicitor* has complied with paragraph (2) above, the money earmarked for costs becomes *office money* and must be transferred out of the *client account* within 14 days.

The last transfer in the batch, which would have been a part bill, making the whole sum round, could have been as little as few pounds or a few pence.

By not transferring the entire bill I was breach of Rule 19 (3) , but was not a breach of the Round Sum Transfer Rule and Client Money was far from at risk. My breach was a technical breach.

Interventions are meant to be rare. Using the facts of my case by way of an illustration, what the Law Society is saying is that not a single one of the millions of Solicitors who have transferred their costs over the past 50 years is guilty of the same breach. The Law Society believes that, without exception, those millions of Solicitors have all transferred every penny of their costs within 14 days. I am the rare case of a Solicitor who has breached Rule 19 (3)

How would the Law Society know that without inspecting every single one of those millions of Solicitor's books, and the hundreds of millions of transactions recorded in them? .

43. Was Parliament aware the Ground 3, as enacted, obliges the Law Society to examine every single accounting entry made by every single law firm. There is no law practice in the country which could claim never to have made a single bookkeeping error corrected upon discovery which has never put Client Money at risk. Examples are

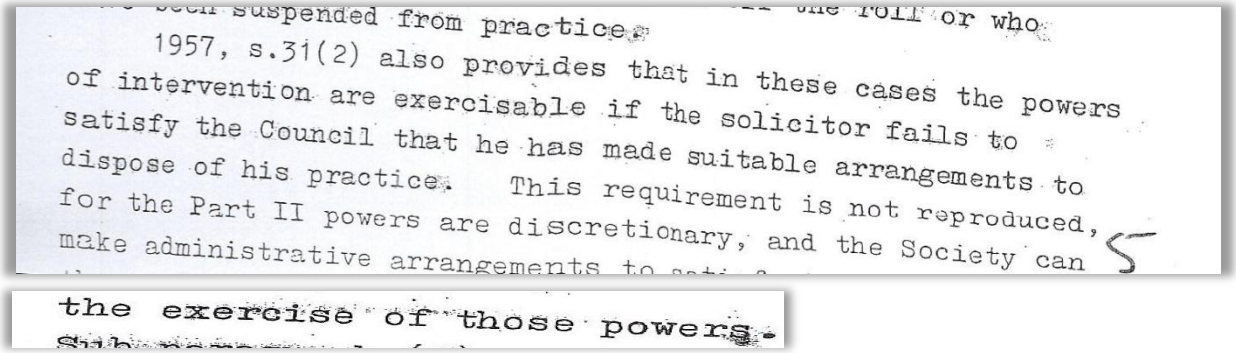
1) a receipt entered in the wrong ledger
2) payment made from the wrong client's ledger
3) a double entry
4) an entry made on the wrong side the ledger.

Under Ground 3 as enacted, the firm does not have the right to explain the error, or the rectification of the error, which may have been effected minutes, hours, days or weeks after the irregularity.

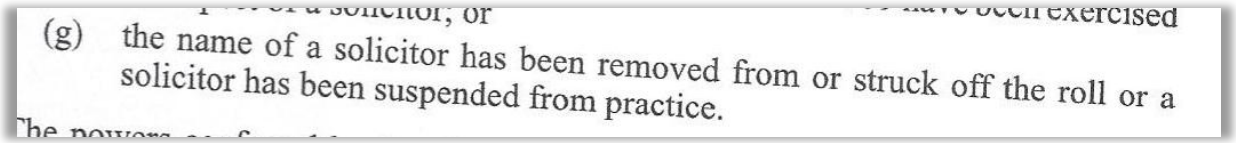
How does the Law Society know that no firm has ever made bookkeeping error?

44. Was Parliament aware that its stated intention was not reflected in Para 1(1) (g) Under the 1965 Act, the Solicitor who had been struck off was given 21 days to make arrangements for the disposal of his practice before the Law Society's could intervene.

The Parliamentary Records show that the concession was intended to apply in Ground 7 Interventions, exercisable at the Law Society's discretion


suspended from practice.
1957, s.31(2) also provides that in these cases the powers of intervention are exercisable if the solicitor fails to satisfy the Council that he has made suitable arrangements to dispose of his practice. This requirement is not reproduced, for the Part II powers are discretionary, and the Society can make administrative arrangements to
the exercise of those powers.

Para 1 (1) (g) does not embody that concession:


(g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

45. Why does Parliament barely mention the 1974 Vesting Resolution? While countless hours are devoted to debating Document Production, not a single word is said about the Statutory Freezing Order Procedure and the only reference to the 1965 Act Non Vesting Resolution Procedure is:

Parliament does not say that the effect of the resolution (or notice) is to freeze the Solicitor's Bank Account: Parliament says that the purpose of the Vesting Resolution is to start the Documents Production Procedure.

1974 ACT. FIRST PRESENTATION 2 MARCH 1972

One significant change that is made is that the words "reasonable cause to believe" have been deleted, and the words "reason to suspect" have been substituted for them. If, therefore, the Council has reason to suspect dishonesty on the part of the solicitor it can, in terms of Schedule 1 of this Bill, by notice put into operation in relation to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to suspect dishonesty it can give notice, and then it can exercise among other powers the following:

"The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (whether or not the documents are the property of the solicitor or his firm), or relating to any controlled trust.

"If any person having possession or control of any such document fails to comply forthwith with any requirement made under this paragraph, he shall be guilty of an offence and he liable on summary conviction to a fine not exceeding £50."

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

46. Did the Legislature, the Judiciary, the Executive and the Government plan the Intervention Fraud in 1974?

47. Did the Legislature, the Judiciary, the Executive and the Government plan the Intervention Fraud in 1965?

48. Did the Legislature, the Judiciary, the Executive and the Government plan the Intervention Fraud in 1957?

49. Did the Legislature, the Judiciary, the Executive and the Government plan the Intervention Fraud in 1941, when the Compensation Fund was created?

5 ADMINSTRATION OF JUSTICE ACT 1985

50. The AJA and the Parliamentary Debate is at **Part 2A Page 230-289.** Did Parliament understand that s44B provisions were linked with the Schedule 1 Provisions?

51. If the Solicitor's Documents could be examined under S.44B, why was the Document Production Procedure in Schedule 1, which had the same purpose, retained?

52. The Law Society no longer needed to act on reason to suspect the Solicitor of dishonesty: it could now be certain, one way or the other by examining the Solicitor's Documents under s44B,. Why then was Ground 1 Reason to Suspect Dishonesty not amended?

53. Does the following extract show that in 1985 Parliament that an intervention simply meant that the Law Society could procure the removal of a certain file so that the transaction could be completed?

> The Lord Chancellor
>
> The issue here is again rather esoteric, but the point is that one ought to draw a distinction between the draconian powers of intervention in practice, which is possessed by the council, and the more general powers of discipline and process for incompetence or negligence. Of course, it will be necessary for the council to take appropriate disciplinary action through the committees established for the purpose following complaints or allegations of negligence or gross incompetence. That is not in dispute.
> But the council also has the almost draconian powers of intervention in the practice and these are not intended for that purpose. The power is needed to intervene in a practice where there has been undue delay to recover documents so that the outstanding elements of a particular transaction can be completed. In such cases disciplinary action alone will not be enough. This is not the case where the complaint relates solely to incompetence or negligence.
>
> I say again that the Law Society's analogous powers relate only to cases of undue delay and these have not proved insufficient for their purpose. The powers of intervention are deliberately restricted to cases of emergency. It would in my view be wrong to extend them
> more generally in the way envisaged. Accordingly, I hope my noble friend will accept this explanation as answering his main point.

6 S.79 OF THE 1974 ACT AS SUBSTITUTED BY THE COURTS AND LEGAL SERVICES ACT 1990

54. Was Parliament aware that by enacting s. 79 **Part 2A Page 290-295** it enabled the Law Society to delegate its disciplinary functions over solicitors to unqualified staff such unaccredited bookkeepers, gym instructors, life coaches, sales assistant and cold callers, with devastating consequences for solicitors **Part 1D1 Page 860-1220**?

G	DID THE LEGISLATURE INTEND TO ENACT THE 1965 ACT SCHEDULE 1 PROVISIONS, BUT INSTEAD ENACTED THE 1974 ACT SCHEDULE 1

55. Did the Legislature enact the wrong Schedule in 1974?

The following are extracts from the 1972 -1974 Debates:

FIRST PRESENTATION

02 Mar 1972	Lords Chamber. Second Reading

LORD TANGLEY

The third and last preliminary observation I should like to make relates to the form of the Bill. It could have been cast in a somewhat similar form particularly so far as the Schedules are concerned, but the object has been to put the legislation, when this Bill has been passed, in a shape which is convenient for consolidation. I think it is time that the Solicitors Acts were consolidated, and that accounts for the form of this Bill and particularly of its Schedules. We were proceeding by way of re-enacting, subject to Amendments, which is always a bit complicated. You might call this Bill "The Solicitors (Miscellaneous Provisions) Bill",

Parliament believes that the Schedules are the same

[ ]

Next we come to Part II of the Bill, and here we are dealing with the Schedules. The Schedules are really designed to protect clients; they are not for the protection of the solicitors at all. The Schedules are mainly the old Schedules amended and revised in certain respects, and they are brought into effect by Clause 5. I do not think I need say very much about them; they are mainly a repetition of the existing law. Clause 6 enables the Law Society to take over quickly the papers of a solicitor who has been practising on his own and has died. I am afraid that solicitors are not always as careful as they should be in arranging their own affairs—sometimes they are too busy in arranging their clients' affairs to consider their own. It may well be that the solicitor appoints executors who are not solicitors and who have no idea of what to do about the practice. In such cases the Law Society seeks power to take charge of the situation. That is wholly for the benefit of the clients.

[ ]

The rest of the Bill I do not think I need comment on at all. The Schedules are amended, but for the most part they apply the existing law with only procedural changes. If any noble Lord wishes me to deal further with that, I shall have an opportunity of doing so. However, there is just one point I ought to mention. It is supremely unimportant but it raises a point

LORD JANNER

As a member of the Joint Committee on Consolidation Bills for over 30 years, I feel that the amendments which are included in the Bill for the purpose of consolidation are of considerable value. They will result in the saving of much time of the legal draftsmen, and will remove some ambiguities which exist in the law at present.

The Bill was introduced for the purpose of consolidation

FOURTH PRESENTATION

30 Apr 1974	Lords. Second Reading. Committee Stage of hole House

THE LORD CHANCELLOR

My Lords, I beg to move that this Bill be now read a second time. It has become something of a hardy perennial in your Lordships' House. Two previous versions of the Bill introduced on behalf of the Law Society were welcomed and passed by this House. The third version, introduced by the last Administration, was read a second time in another place. Its further passage was interrupted by the recent Dissolution. This Bill is, in substance, the same as that introduced by the previous Administration but it contains important changes to which I will refer in a moment. I believe that the changes improve the Bill, and I hope that once again the Bill will commend itself to the House.

LORD HAILSHAM OF SAINT MARYLEBONE

My Lords, I do not propose to take up the time of the House discussing this Bill at any length because the noble and learned Lord who has now taken up the task which I demitted some months ago has explained the Bill very fully to the House, and because he began by saying that it is virtually the same Bill as the Master of the Rolls introduced twice before and I once. The noble and learned Lord on the Woolsack referred to it for that reason as a hardy perennial. Botanically, I should hardly think he was correct. It is more like a half hardy annual, but I hope it will now finally blossom and seed and that it will produce in the next generation a consolidated Bill in which the highly complicated law as it affects the solicitors' profession is finally reduced to a single and intelligible code. I wish the noble and learned Lord, in the task which I left behind for him to complete, better luck than I had in getting it on the Statute Book.

My Lords, I do not think the changes are of very great importance.

My Lords, looking back on the history of this Bill, I note that, apart from a number of essential but highly technical clauses which have been explained to the House more than once and which I shall not go into again, by far the most important innovation from the point of view of the general public is not in the machinery for investigating complaints but in the provision which provides for compulsory insurance against negligence

The great provision which I hope this Bill will introduce, and which was proposed when the Bill was introduced last as a Government Bill, is a scheme—and I hope that the noble and learned Lord will tell us within what time-scale it is likely to be available to the public—by which solicitors are in effect insured against negligence so that if there is an award of damages against them the client who has lost money by reason of professional negligence can be fully compensated. All the best solicitors' firms now insure against negligence despite the doubt, which I think is probably well founded, as to whether barristers can be made liable for negligence. My own professional chambers at the Bar are insured with a reputable concern against that possibility and I think that all professional people should insure in this way. The fact that this Bill will make it universal provides an important additional safeguard for the public.

The establishing of insurance for negligence was considered to be the most important purpose of the bill- not the Intervention Powers

The rest of the Bill is purely technical.

FOURTH PRESENTATION

24 Jun 1974	Commons. Confusion resolved

Mr. English

On a point of order, Mr. Speaker. I ask you, Mr. Speaker, to clear up a matter of some considerable confusion. The Solicitors (Amendment) Bill is proceeding through the House in Committee, having passed through another place. On Thursday morning the Committee ascertained that there is proceeding through another place the Solicitors Bill, which is a consolidation measure. On Wednesday the Joint Consolidation Committee of both places met to consider the second Bill. That Bill describes as an Act the contents of the Solicitors (Amendment) Bill, the latter not yet having been passed by Parliament.

As the Joint Consolidation Committee has no power to do other than consolidate the law and to amend it only in minor respects, I ask you, Mr. Speaker, whether the Committee has any jurisdiction to consider this Bill and whether you will direct hon. Members not to attend such a Committee to discuss the Solicitors Bill. Secondly, I ask you, Mr. Speaker, to consider the

fact that a Bill is before another place which implies that this House will pass another Bill without any amendment.

25 Jul 1974	Lords. Second Reading. No Amendments. Order of Commitment discharged. Passed to Commons.

THE LORD CHANCELLOR

(LORD ELWYN-JONES)

My Lords, I understand that no Amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript Amendment or to speak in Committee. Therefore, unless any noble Lord objects, I beg to move, pursuant to Standing Order No. 45(2), that the Order of Commitment be discharged.

My Lords, I should inform the House that this is a pure consolidation Bill. The Joint Committee on Consolidation Bills made a number of Amendments to the Bill which it considered necessary to bring the Bill into conformity with existing law. The Joint Committee was of the opinion that the Bill, as amended, represented existing law and that there is no point to which the attention of Parliament should be drawn. I beg to move that the Order of Recommitment be discharged.

Existing law

H WHICH VERSION of SCHEDULE 1 IS THE RIGHT VERSION ?

Version 1, 2 and 3 with explanatory materials are shown from **Page 86-111** below

56. Which Version does Parliament say it intended to enact?

57. Which Version does the Judiciary say Parliament enacted?

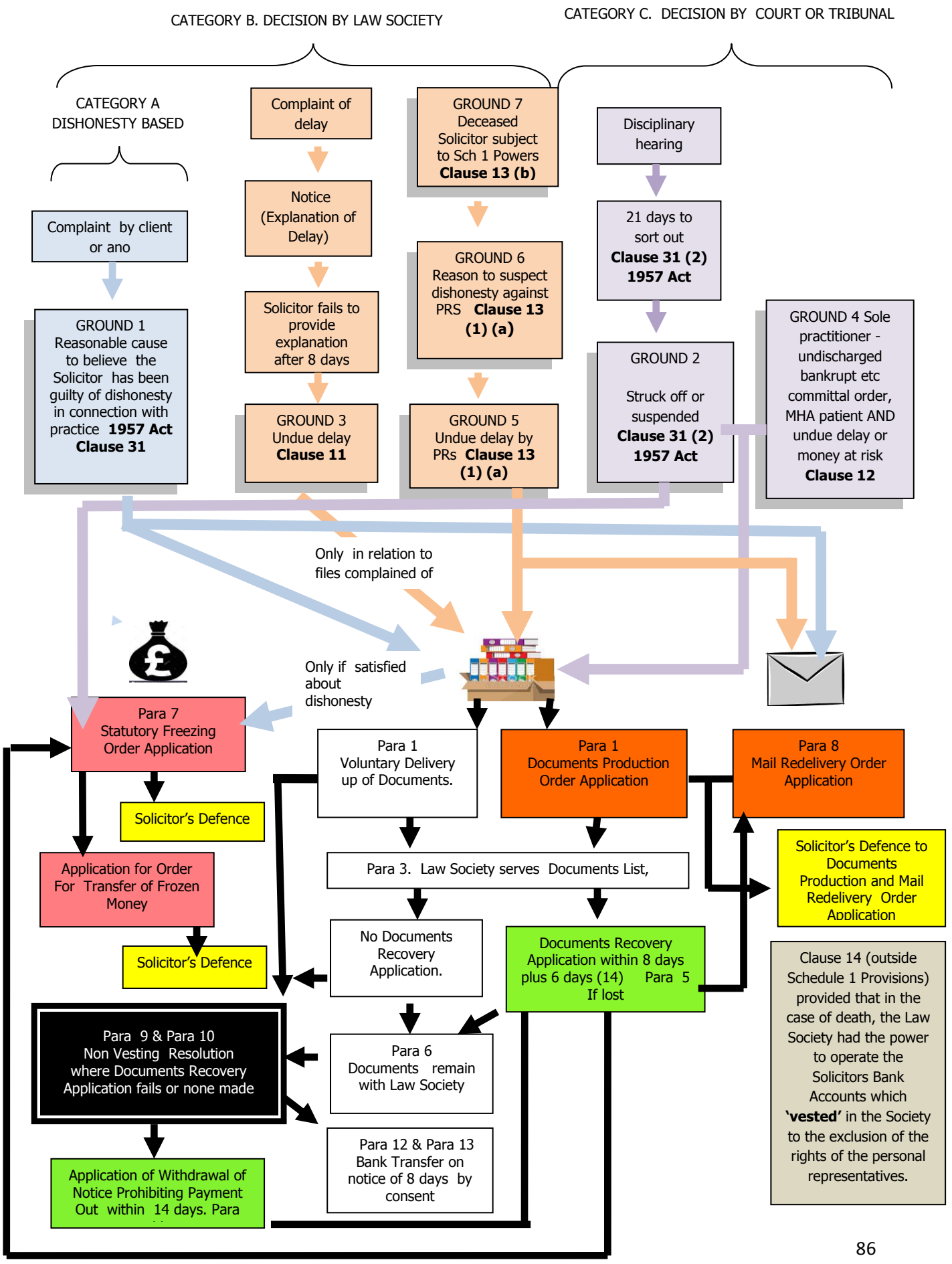
58. Which Version does the Law Society say Parliament enacted ?

59. Which Version does the Government say Parliament enacted?

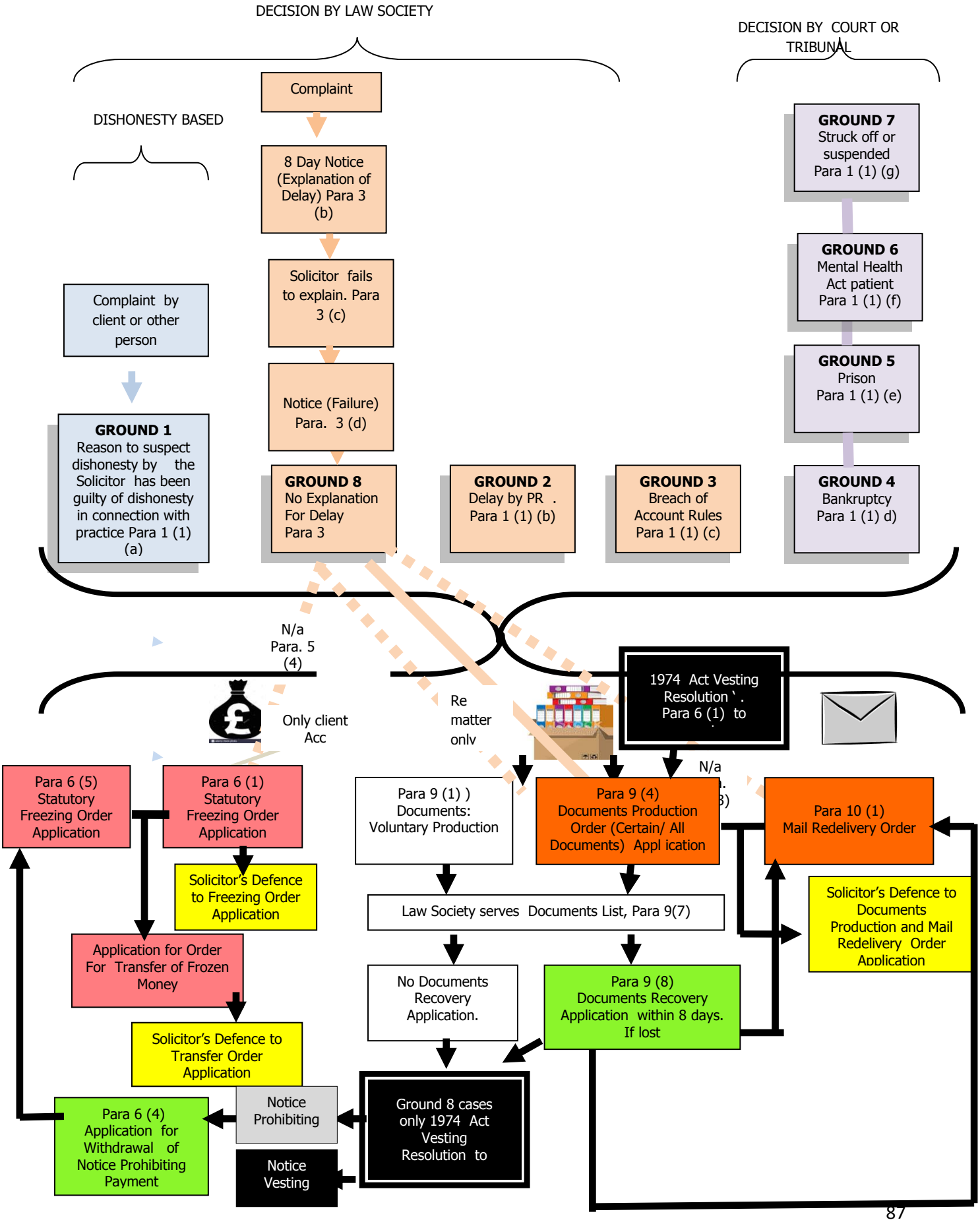
60. Which Version does the Attorney General say Parliament enacted?

61. Which Version did Parliament ,in fact, enact?

THE SOLICITORS ACT 1965 INTERVENTION PROCEDURE



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)

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 4 Bankruptcy Para 1 (1) d)

GROUND 5 Prison Para 1 (1) (e)

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

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

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 4 Bankruptcy Para 1 (1) d)

GROUND 5 Prison Para 1 (1) (e)

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

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

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

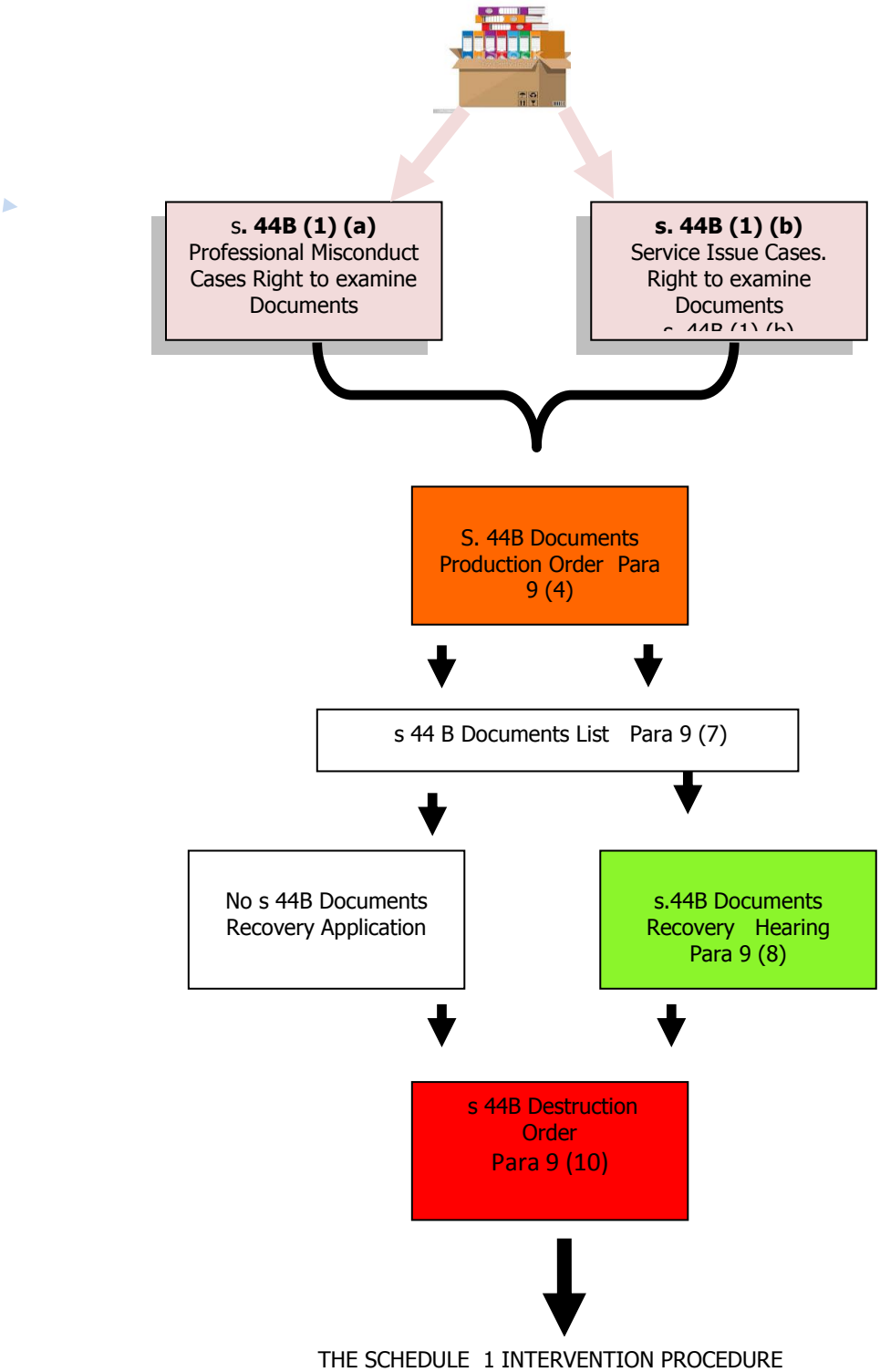
Service of Notice Prohibiting Payment

Statement that Vesting Resolution has been certified

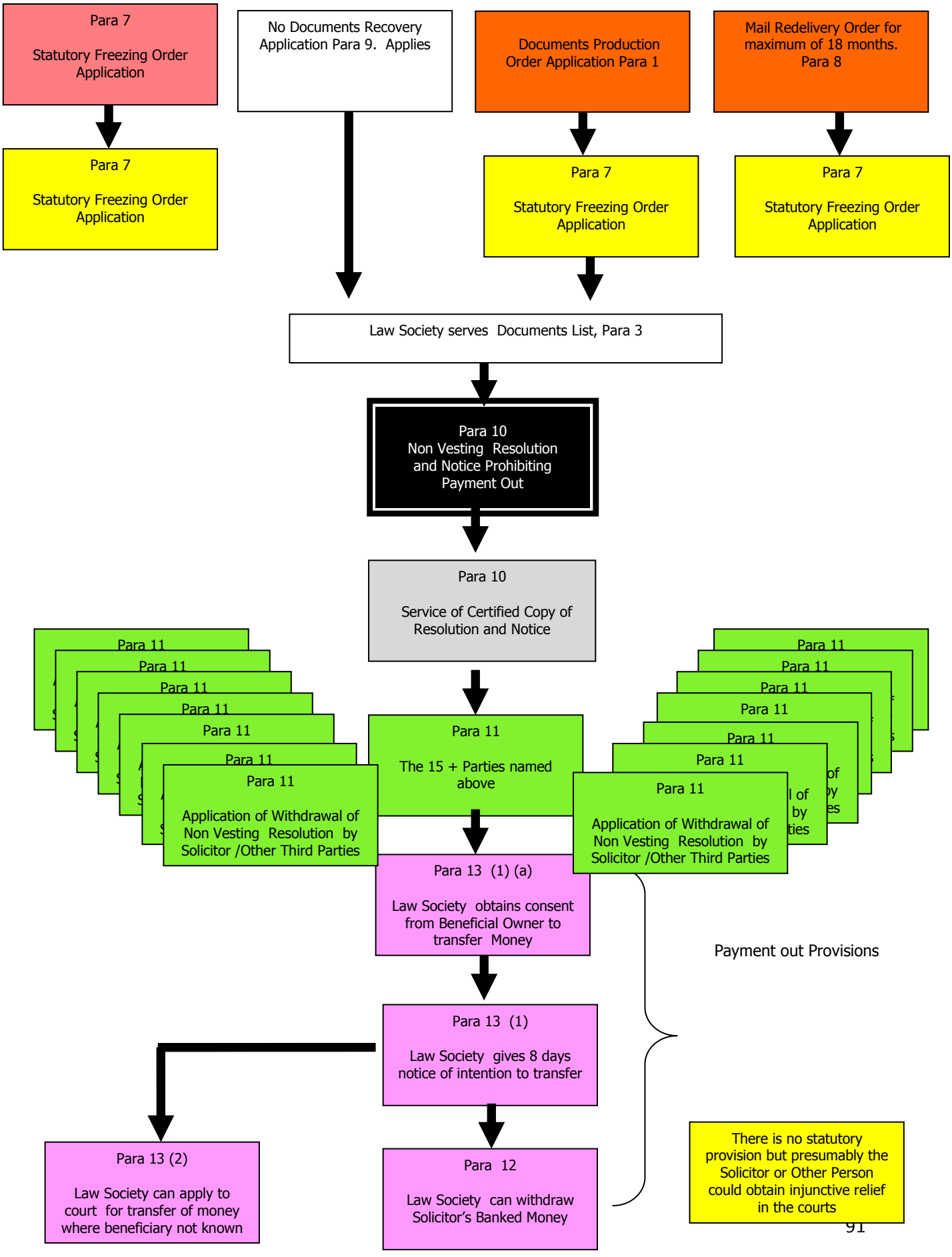
Law Society may or may not serve Documents List. Para. 9 (7)

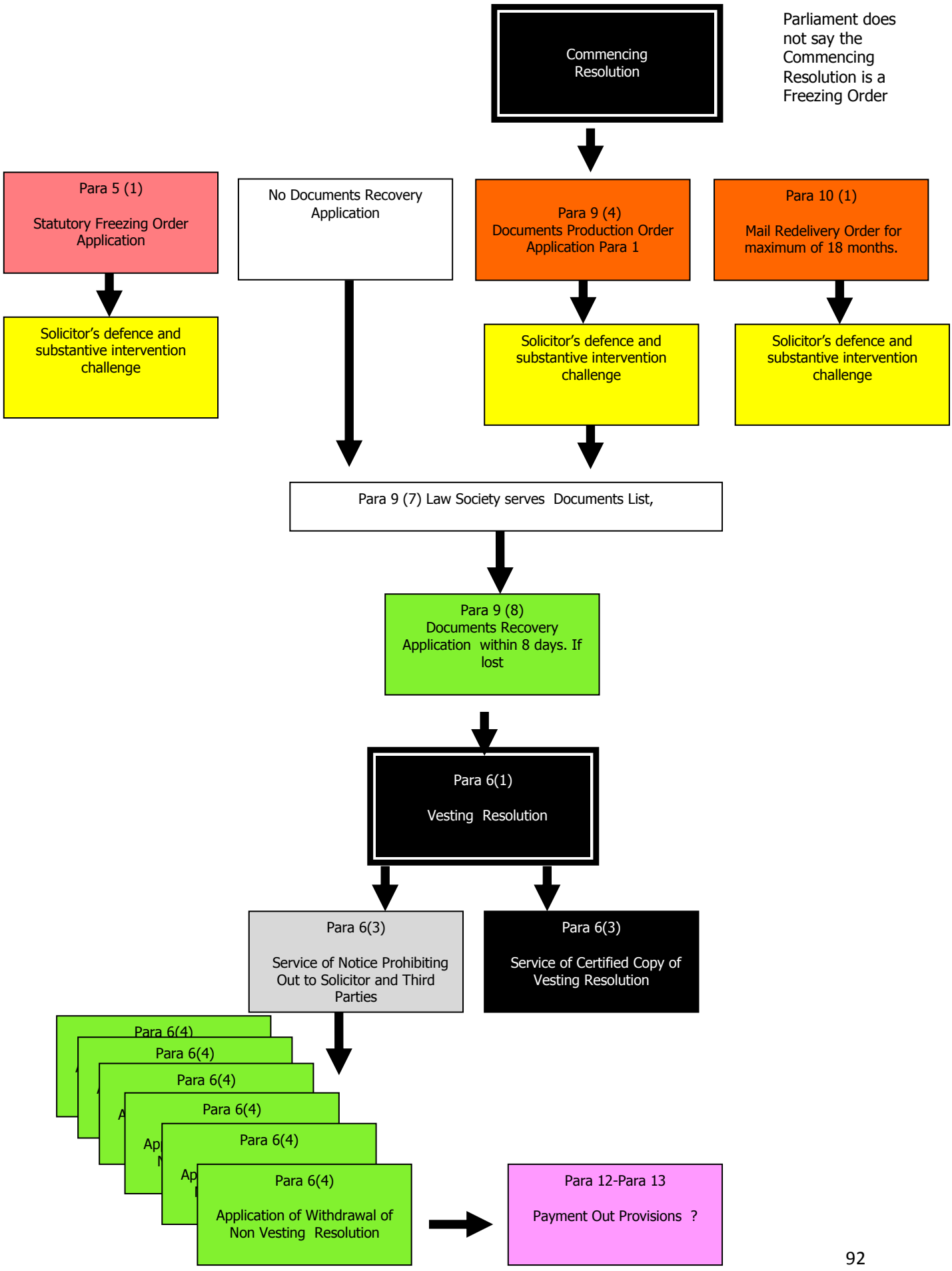
Application for Withdrawal of Vesting Resolution (not Notice Prohibiting Payment) and Application for Recovery of Documents within 14 days purportedly pursuant to Para 6 (4) and Para 9 (8)
s. 2-s, 4 Fraud Act 2006, Theft Act 1968 Offences. Perverting of the Course of Justice, Abuse of Process, Misconduct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

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

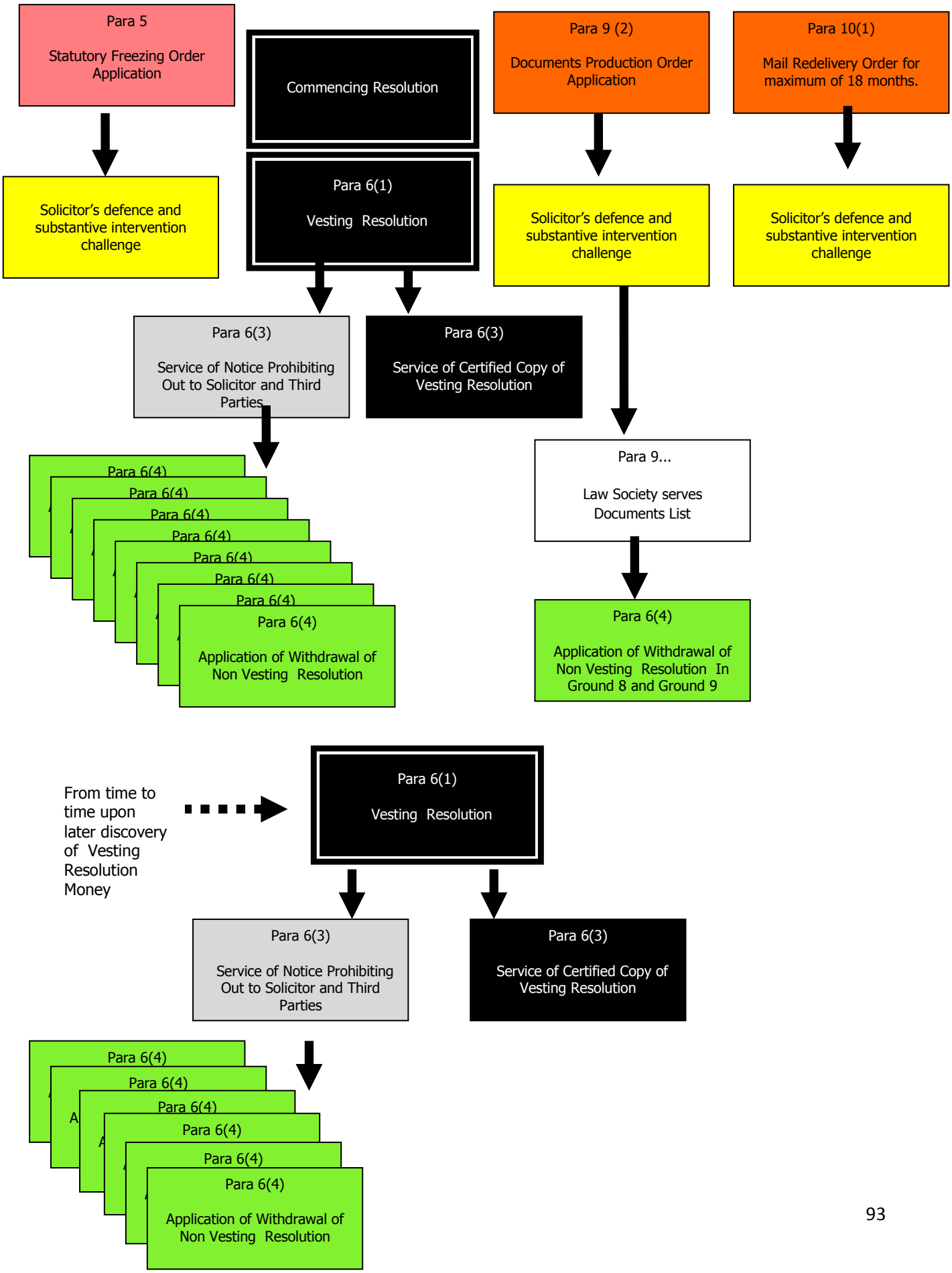


1965 ACT NON VESTING RESOLUTION PROCEDURE




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

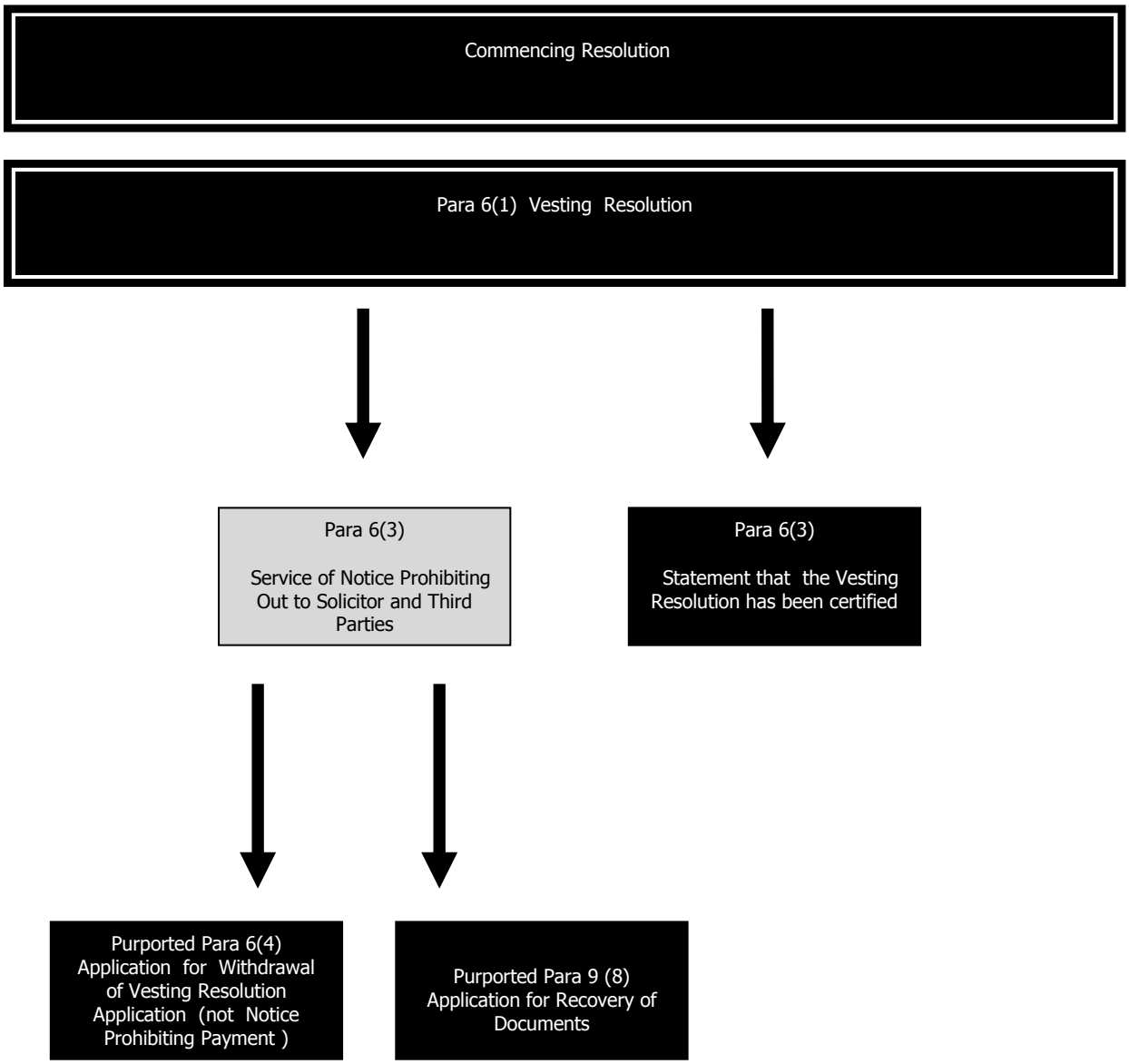


DIAGRAM SHOWING HOW VERSION 1 EVOLVED FROM 1965 ACT SCHEDULE 1

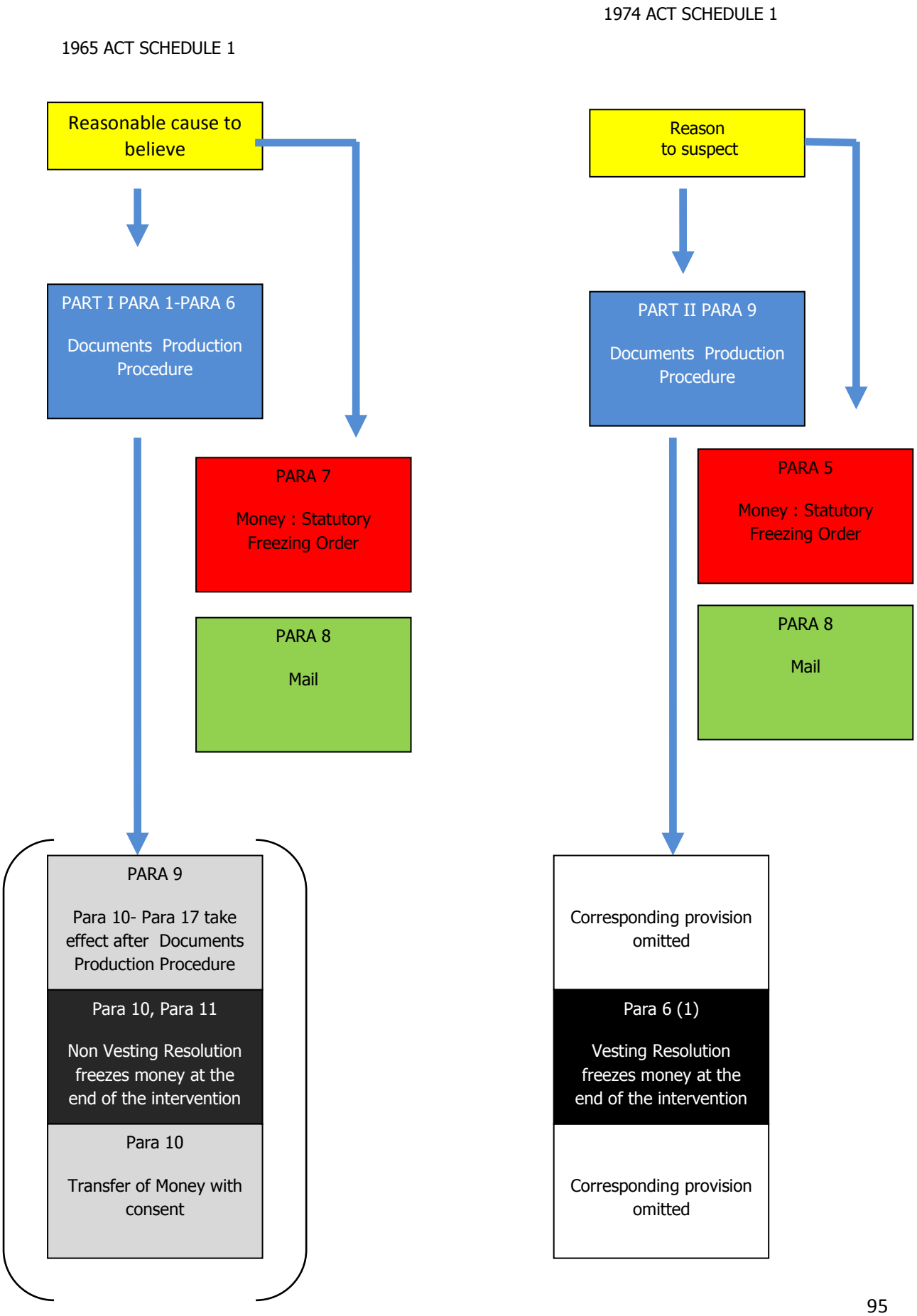


DIAGRAM : HOW VERSION 2 EVOLVED FROM 1965 ACT SCHEDULE 1

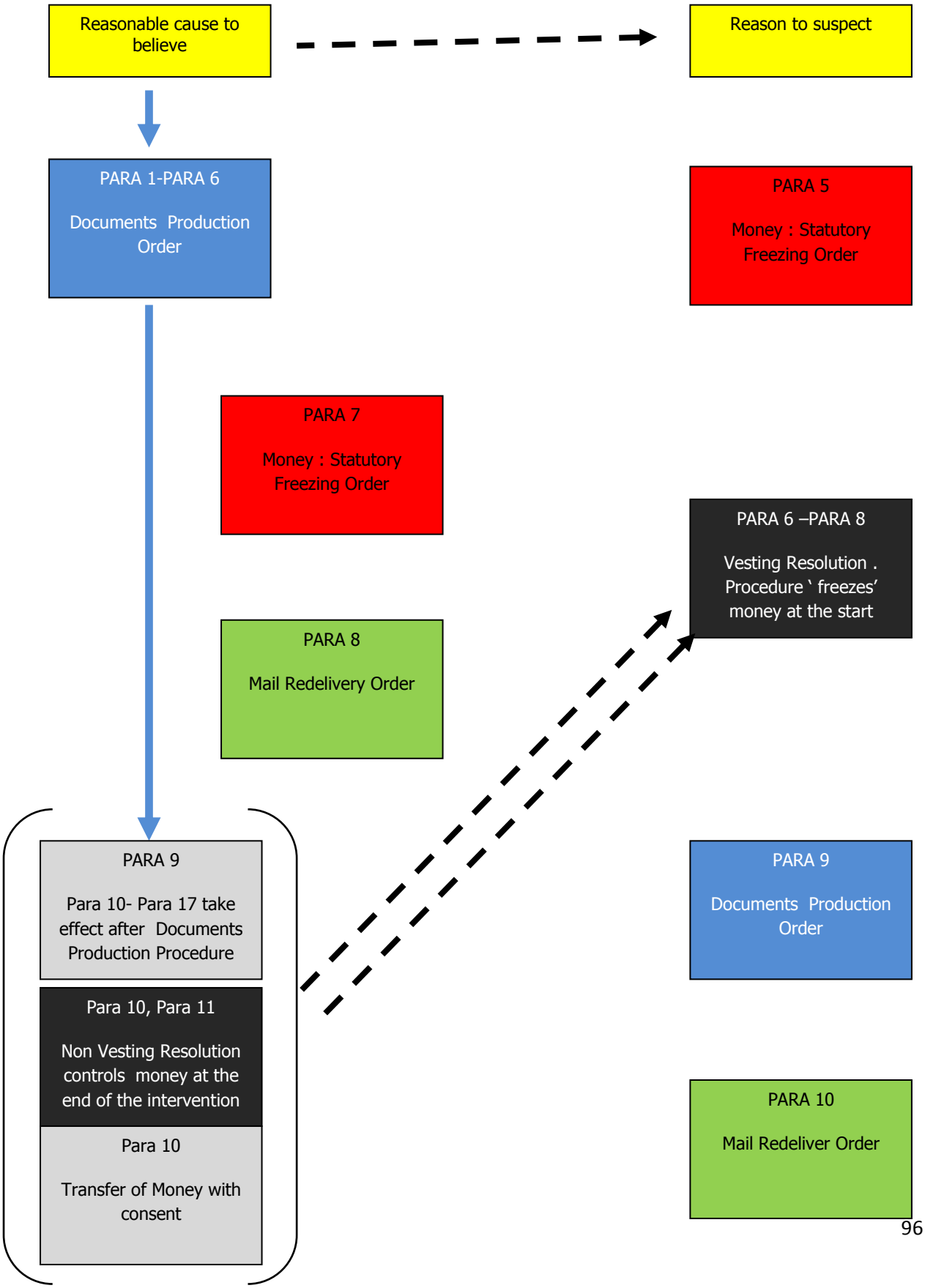
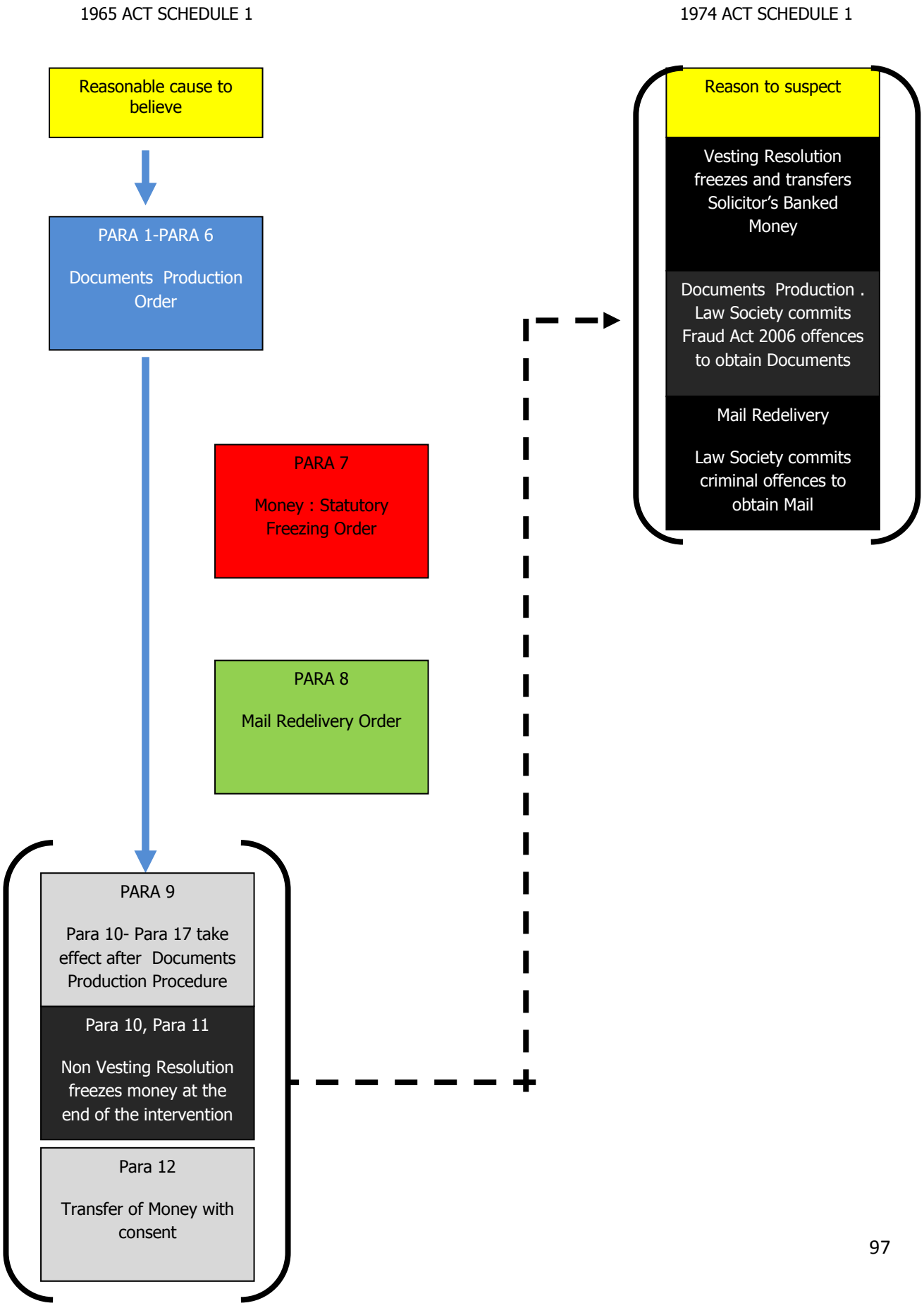


DIAGRAM SHOWING HOW VERSION 3 EVOLVED FROM 1965 ACT SCHEDULE 1



a) THE DIFFERENCES BETWEEN VERSION 1 AND VERSION 2

i) COMMENCING RESOLUTION AND NON VESTING RESOLUTION CONFLATED INTO THE VESTING RESOLUTION

The 1965 Act Schedule Para 10 provided for the making of a Resolution which prohibited payments out (the Para 11 Non Vesting Resolution)

> 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, and for that purpose the Society shall serve on the solicitor or his firm, and, except where the provisions of section 14 of the Solicitors Act 1965 apply, on any banker and on any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13 of this Schedule.

In the 1972 Debate on the Solicitors Amendment Bill, the Council's Resolution is mentioned for the first and only time. What is said in the Debate shows that all that the resolution (the Commencing Resolution) did was to mark the start of Documents Production Procedure which was the first stage of the Intervention Procedure.

Parliament does not associate the Commencing Resolution with the controlling of Money, so it is a separate and distinct from the Para 11 Non Vesting Resolution.

In Version 2 there were two resolutions :

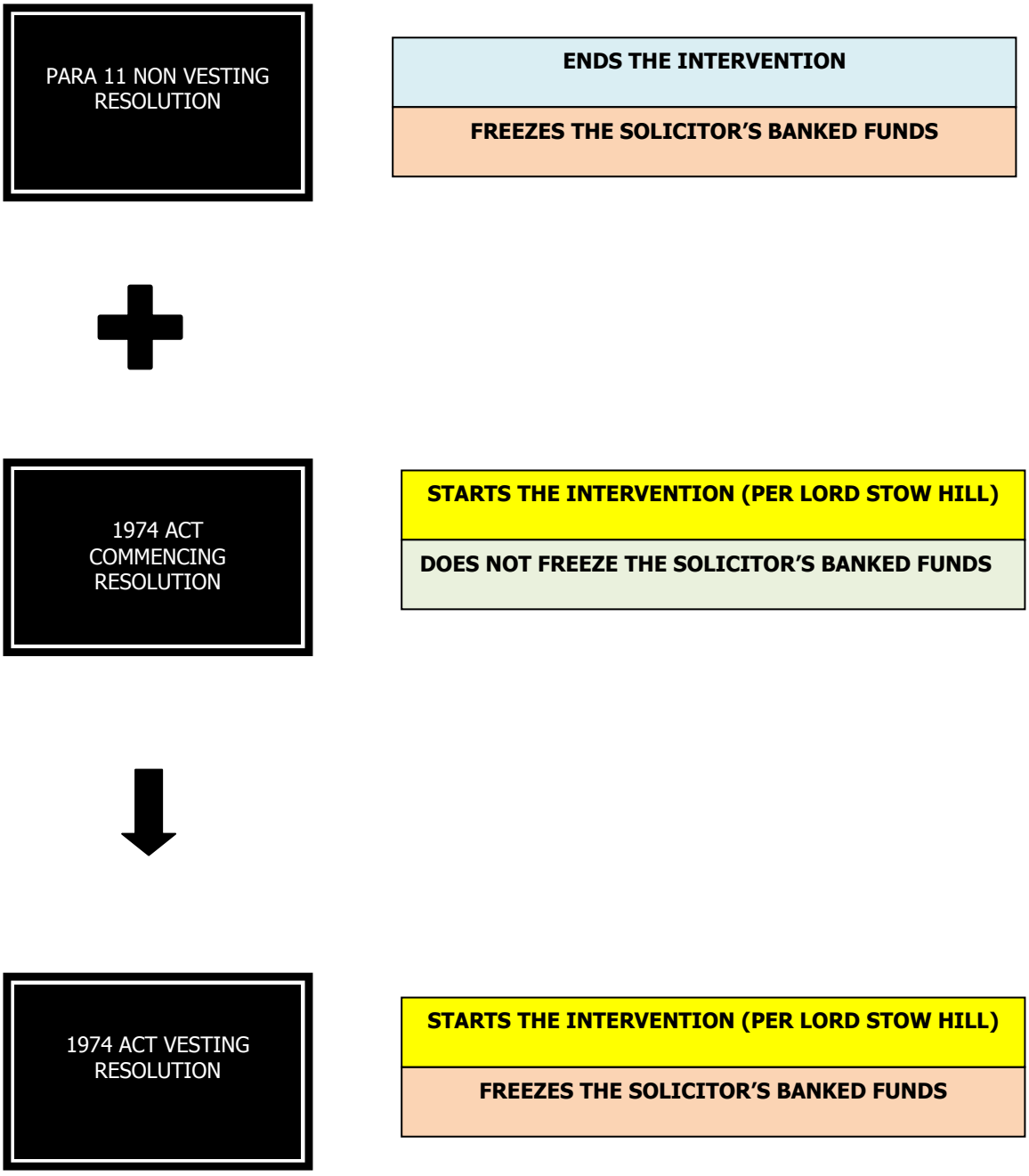
1) The Para 11 Non Vesting Resolution, which took effect as the last stage of the Intervention Procedure and froze the Solicitor's Banked Money, and

2) The Commencing Resolution, which took effect at the start of the Intervention Procedure and did not freeze the Solicitor's Banked Money

They were conflated into the 1974 Act Vesting Resolution, which

- froze the Solicitor's Banked Money
- at the start of the Intervention Procedure

The Diagram below illustrates the process.


PARA 11 NON VESTING RESOLUTION
ENDS THE INTERVENTION
FREEZES THE SOLICITOR'S BANKED FUNDS
1974 ACT COMMENCING RESOLUTION
STARTS THE INTERVENTION (PER LORD STOW HILL)
DOES NOT FREEZE THE SOLICITOR'S BANKED FUNDS
1974 ACT VESTING RESOLUTION
STARTS THE INTERVENTION (PER LORD STOW HILL)
FREEZES THE SOLICITOR'S BANKED FUNDS

ii) THE REPOSITIONING OF THE VESTING RESOLUTION IN THE SCHEDULE

In the 1965 Act the Non Vesting Resolution Procedure started as Para 10 of Schedule 1 after the substantive challenge had been concluded, which was reflected by its position in Schedule 1 at the last paragraphs of the Schedule.

In Version 2 of the 1974 Act Schedule 1, the Vesting Resolution Procedure is moved up in the Schedule to Para 6 and positioned immediately after Para 5, the Statutory Freezing Order Procedure which is the most important the Law Society's Intervention Powers.

The repositioning of the procedure in such a prominent place

1) creates the impression that its place in the chronology has changed and that the Vesting Resolution Procedure it is now at the start of the procedure, and

2) creates the impression that the Vesting Resolution Procedure is no longer consequential and dependant on the Documents Production Procedure, and

3) creates the impression that the Vesting Resolution is a power equivalent to the Statutory Freezing Order.

iii) ONLY ONE PART OF THE THREE STAGE PAYMENT OUT PROVISIONS OF THE 1965 ACT NON VESTING RESOLUTION PROCEDURE RETAINED IN THE 1974 ACT SCHEDULE VESTING RESOLUTION PROCEDURE

The Diagram at **Page 891** illustrates this.

iv) THE CHANGE FROM 'TAKING CONTROL' TO 'VESTING'

The 1965 Act Non Vesting Resolution Procedure set out from Para 10 onwards provides

> 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, and for that purpose the Society shall serve on the solicitor or his firm, and, except where the provisions of section 14 of the Solicitors Act 1965 apply, on any banker and on any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13 of this Schedule

The 1974 Act Vesting Resolution Procedure provides:

> Para 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.

Parliament gives no explanation for the change of wording, or shows any understanding of the meaning of vesting.

b) HOW THE LEGISLATURE WAS DUPED

i) THE AMBIGUITY CREATED BY THE OMISSION OF THE COMMENCING RESOLUTION

The changes created ambiguities which could, and would, be exploited to bring about the Law Society's Fraudulent Intervention Procedure.

The first was the failure to distinguish the Commencing Resolution from the Vesting Resolution. It was no longer clear that the function of the Resolution was only to start the Documents Production Procedure

2 March 1972 First Presentation of the Bill

LORD STOW HILL

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

ii) THE AMBIGUITY CREATED BY MAKING THE VESTING RESOLUTION A STAND ALONE PROVISION

The 1965 Act Non Vesting Resolution Procedure followed the Documents Production Procedure.

The 1974 Act Vesting Resolution Procedure appears to be a distinct and separate procedure, not contingent upon the outcome of any other step in the Intervention.

The fact that Vesting Resolution Procedure does not obviously follow the Documents Production Procedure (which it should do) also makes it less apparent that it applies only to Ground 8.

iii) THE AMBIGUITY CREATED BY THE POSITION OF PARA 6

Not only does the Vesting Resolution Procedure appear to be a stand alone provision , the position of Para 6, almost at the start of Schedule of Powers, creates the impression of that its starts the Intervention

iv) THE AMBIGUITY CREATED BY USE OF THE TERM 'VEST'

The complex notion of vesting is discussed in the following sections of Part 2

c) SUMMARY OF VERSION 2

Version 2 is also consistent with the Lawful Intervention Procedure and more effective than Version 1 because the Vesting Resolution Procedure can start as soon the Resolution to Intervene is made and operate concurrently with the Substantive Procedures.

This has the advantage that Third Party Interests, such as the Solicitor holding Vesting Resolution Money to order, need not wait until the conclusion of the Substantive Hearings, and the interests of the Trustee in Bankruptcy or the Official Receiver (who do have to await the outcome of the Solicitor's challenge) can also be determined earlier.

d) THE LAW SOCIETY'S FICTITIOUS SCHEDULE 1

i) THE PARTS OF SCHEDULE 1 THE LAW SOCIETY DOES NOT ACKNOWELDGE

SCHEDULE 1

Section 35.

INTERVENTION IN SOLICITOR'S PRACTICE

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1 (1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—

(a) 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 ;

(b) 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;

(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;

(d) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors ;

(e) a solicitor has been committed to prison in any civil or criminal proceedings;

(f) the powers conferred by section 104 (emergency powers) or 105 (appointment of receiver) of the Mental Health Act 1959 have been exercised in respect of a solicitor; or

(g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

(2) The powers conferred by Part II of this Schedule shall only be exercisable under sub-paragraph (1)(c) if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

2 On the death of a sole solicitor paragraphs 6 to 8 shall apply to the client accounts of his practice.

3 The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3), where—

(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

Note 1 Account Rules Breaches were intended to be Grounds for intevenion only if Client Money was at risk

new section 32A). ... insurance

This is new. Breaches of the accounts rules or indemnity rules can be dealt with by disciplinary proceedings; sub-paragraph (1)(c) supplements the disciplinary sanction by enabling speedy remedial action to be taken where a breach of the rules indicates that clients' interests may be jeopardised. Sub-paragraph (1)(d) - (f) restate in simpler terms provisions of 1965, s.12 which apply the powers of

(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.

4 (1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.

(2) The references to the solicitor or his firm in paragraphs 5(1), 6(2) and (3), 8, 9(1) and (5) and 10(1) include, in any case where the solicitor has died, references to his personal representatives.

PART II

POWERS EXERCISABLE ON INTERVENTION

Money

5 (1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.

(2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank, has indicated at which of its branches the Society believes that the money to which the order relates is held.

(3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.

(4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

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 applies—

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;

The Statutory Freezing Order Procedure exists in theorgy

(b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and

(c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

Note 1 Changed to Application to Court to withdraw the Vesting Resolution not the Notice Prohibting Payment Ourt

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

7 (1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, and any such person shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.

(2) A bank at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

8 Without prejudice to paragraphs 5 to 7, if the High Court is satisfied, on an application by the Society, that there is reason to suspect that any person holds money on behalf of the solicitor or his firm, the court may require that person to give the Society information as to any such money and the accounts in which it is held.

Documents

9 (1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—

(a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and

(b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society.

(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.

(4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

(5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession of some person other than the solicitor or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.

(6) On making an order under this paragraph, or at any later time, the court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.

(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society's notice under sub-paragraph (7).

(10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10.

(11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit.

(12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10), the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

Mail

10 (1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court thinks fit postal packets (as defined by section 87(1) of the Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address.

(2) Where such an order is made the Society shall pay to the Post Office the like charges (if any), as would have been payable for the re-direction of the packets by virtue of any scheme made under section 28 of the Post Office Act 1969, if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office to redirect them to him at the address mentioned in the order.

(3) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Trusts

11 (1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustee Act 1925 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.

General

12 The powers in relation to sums of money and documents conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

13 Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part of this Schedule on behalf of the Society, shall be paid by the solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

14 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

15 Any application to the High Court under this Schedule may be disposed of in chambers.

16 The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

ii) THE LAW SOCIETY'S FICTITIOUS SCHEDULE 1

SCHEDULES

SCHEDULE 1

Section 35.

INTERVENTION IN SOLICITOR'S PRACTICE

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1 (1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—

(a) 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 ;

(b) 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;

(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;

(d) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors ;

(e) a solicitor has been committed to prison in any civil or criminal proceedings;

(f) the powers conferred by section 104 (emergency powers) or 105 (appointment of receiver) of the Mental Health Act 1959 have been exercised in respect of a solicitor; or

(g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

(2) The powers conferred by Part II of this Schedule shall only be exercisable under sub-paragraph (1)(c) if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

2 On the death of a sole solicitor paragraphs 6 to 8 shall apply to the client accounts of his practice.

3 The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3), where—

(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.

4 (1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.

(2) The references to the solicitor or his firm in paragraphs 5(1), 6(2) and (3), 8, 9(1) and (5) and 10(1) include, in any case where the solicitor has died, references to his personal representatives.

PART II

POWERS EXERCISABLE ON INTERVENTION

Money

5 (1) [illegible]

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

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50

7 (1) If the Society takes

Documents

9 (1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—

(a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and

(b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society.

(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.

General

12 The powers in relation to sums of money and documents conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

13 Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part of this Schedule on behalf of the Society, shall be paid by the solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

14 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

15 Any application to the High Court under this Schedule may be disposed of in chambers.

16 The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

I THE VESTING RESOLUTION

1 ANALYSIS

Ancient banking began in about 2000 BC of the ancient world when merchants made grain loans to farmers and traders started carrying goods between cities within the areas of Assyria and Babylonia. The Code of Hammurabi, dating back to about 1772 BC, is one of the oldest deciphered writings of significant length in the world that deals with matters of contract and set the terms of a transaction. This code also included standardized procedures for handling loans, interest, and guarantees.

Later on, in ancient Greece and during the Roman Empire, lenders based in temples made loans and started accepting of deposits. Banking activities in Greece were more varied and sophisticated than in any previous society. They took deposits, made loans, changed money from one currency to another, and tested coins for weight and purity. They engaged in book transactions. Moneylenders would accept payment in one Greek city and arrange for credit in another, avoiding the need for the customer to transport or transfer large numbers of coins.

Modern banking can be traced to medieval and early Renaissance Italy.

Since then, the banking industry has evolved into a modern complex, globalized, technology-driven, and internet-based e-banking model. Underpinning national and global economies, banking is one of the world's the most regulated industries.

Never in the history of banking has it been lawful for a bank to hand over the depositor's money to an unconnected third party behind the depositor's back upon receipt of a mere request from that third party. The Law Society freezes a customer's bank account (which the statute apparently permits it to do) and immediately transfers the Solicitor's Money to its own account without the Solicitor's knowledge and approval (which the statute does not permit it to do).

Banking law is governed by many statutes and a cohort of Banking Regulations, to name a few:

- The FSMA 2000;
- The Financial Services and Markets Act (Regulated Activities) Order 2001;
- The Banking Act 2009;
- The Financial Services (Banking Reform) Act 2013 (FS(BR)A 2013); and
- The Bank of England and Financial Services Act 2016.

In not a single Act or Regulation is it considered necessary to state that it is unlawful for a Bank to hand its customer's money to a third party behind the customer's bank and without his permission.

What is, or should be, impossible to do, the Law Society succeeds in doing. UK Banks transmit the Solicitor's Banked Money to the Law Society as soon as they receive a facsimile of the Vesting Resolution , without enquiry.

There is also the question of how the Law Society manages to breach the Banks' security protocols. How do Banks verify that the sender is the Law Society?

If the Banks are willing to accept the Vesting Resolution as authority to transfer the customer's money, would the Banks also treat the two documents at **Pages 706-708** in the same way and transfer the customer's money to the proscribed terrorist organisation who had sent them?

1974 ACT. FIRST PRESENTATION 2 MARCH 1972

One significant change that is made is that the words "reasonable cause to believe" have been deleted, and the words "reason to suspect" have been substituted for them. If, therefore, the Council has reason to suspect dishonesty on the part of the solicitor it can, in terms of Schedule 1 of this Bill, by notice put into operation in relation to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to suspect dishonesty it can give notice, and then it can exercise among other powers the following:

"The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (whether or not the documents are the property of the solicitor or his firm), or relating to any controlled trust.

"If any person having possession or control of any such document fails to comply forthwith with any requirement made under this paragraph, he shall be guilty of an offence and he liable on summary conviction to a fine not exceeding £50."

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

Parliament says the Vesting Resolution can be in the form of a letter **Part 2C5 Page 1008**

a) HOW THE VESTING RESOLUTION WAS CREATED

i) DIAGRAM

1965 ACT S. 14 PROVISIONS

1) Outside the Intervention Procedure
2) Applies where Solicitor is deceased
3) The **right to operate** bank account **vests** in the Law Society to the exclusion of any personal representatives
4) Only applies to Client Account
5) The account is not frozen
6) Money remains at the Bank
7) Not a criminal offence

THE 1965 ACT NON VESTING RESOLUTON

From 1965 Act s 14

1) The Law Society can operate the Solicitors Bank Accounts (no vesting)
2) Money remains at the Bank

New

1) The penultimate stage of the Intervention Procedure. Applies after the Documents Production Procedure has been concluded
2) Applies where Solicitor is living
3) The Society passes a resolution
4) The Society **takes control** of the Solicitor's Bank Accounts
5) Applies to Office and Client Account
6) Criminal offence

THE LAWFUL PROCEDEDURE

From Section 14

1) Money vests in the Law Society (but vests only means the right to operate)

From the 1965 Act Non Vesting Resolution Procedure

2) Law Society has control over money i,e can operate it
3) Applies at the end of the Intervention Procedure per Version 1
4) Applies to Client and Office Account
5) Accounts are not frozen but the Law Society has control
6) Payment out procedure as in the 1965 or similar but have been deliberately omitted

New

7) No new provision

THE UNLAWFUL PROCEDEDURE

From Section 14

1) Money vests in the Law Society (vest means the right to transfer to its own account)

From the 1965 Act Non Vesting Resolution Procedure

2) Law Society has unfettered control over money i,e can transfer it
3) Applies to Client and Office Account
4) Criminal offence

New

5) Applies at the start of the Intervention Procedure per Version 3
6) Accounts are frozen
7) Law Society can require Bank to transfer Money to its own account

ii) THE CONCEPT OF VESTING TAKEN FROM 1965 ACT S.14 MERELY A RIGHT TO OPERATE DECEASED ACCOUNT IN PRIORITY TO PERSONAL REPRESENTATIVES

The concept of vesting in the content of controlling the Solicitor's Bank Accounts was first used in the 1965 Act and meant no more than that, in the case of the deceased sole practitioner, the Law Society would be given control over the Solicitor's Banked Money in priority to that of his personal representative (unnecessary in the case of partnerships)

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.

iii) THE CONCEPT OF TAKING CONTROL TAKEN FROM 1965 ACT SCHEDULE 1 PARA 9 - 13

1) THE PROVISIONS

Para 9.

In any case where the Society has taken possession of documents under paragraph 1 of this Schedule, and has not been required to return them by virtue of paragraph 5 thereof, the following paragraphs shall apply, but without prejudice to the application of paragraph 17 thereof so far as it affects any of the preceding paragraphs thereof.

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, and for that purpose the Society shall serve on the solicitor or his firm, and, except where the provisions of section 14 of the Solicitors Act 1965 apply, on any banker and on any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13 of this Schedule.

Para 11.

Within fourteen days of the service of a notice under the last foregoing paragraph the solicitor or his firm, or the banker or other person upon whom the notice was served, may apply to a judge of the High Court in chambers for an order directing the Society to withdraw the notice, and on the hearing of any such application the judge may make such order with respect to the matter as he may think fit.

Para 12.

Subject to the service of any notice under paragraph 10 of this Schedule, and to any application that may be made under the last foregoing paragraph, the Society or any person in that behalf appointed by the Society may withdraw the moneys, or from time to time any part of the moneys, in any banking account in the name of the

solicitor or his firm, and any moneys in the office of the solicitor or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Society or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm might have operated on, or otherwise dealt with, the said banking account:

Provided that a banker with whom such special account or accounts is or are kept shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.

Para 13.—

(1) Subject to the two last foregoing paragraphs, the Society may serve a notice on the solicitor, or his firm, or banker or other person upon whom a notice has been served under paragraph 10 of this Schedule, directing that, immediately after the expiration of eight days from the service of the first-mentioned notice, such moneys as are referred to in that notice be transferred in accordance with the directions of the Society:

Provided that—

(a) no such directions shall be given by the Society except with the approval of the person to whom the said moneys belong, being in the case of a trust the trustee, and, where the solicitor is the sole trustee of a trust or a co-trustee thereof only with one or more of his partners, clerks or servants, the person beneficially entitled to such moneys;

(b) the person upon whom such first-mentioned notice has been served as aforesaid shall be under no obligation to ascertain whether such approval has been obtained.

(2) In any case where the Society is unable to ascertain the person to whom the said moneys belong or where the Society otherwise thinks it expedient so to do, the Society may apply to the High Court or a judge thereof for directions as to the transfer of such moneys.

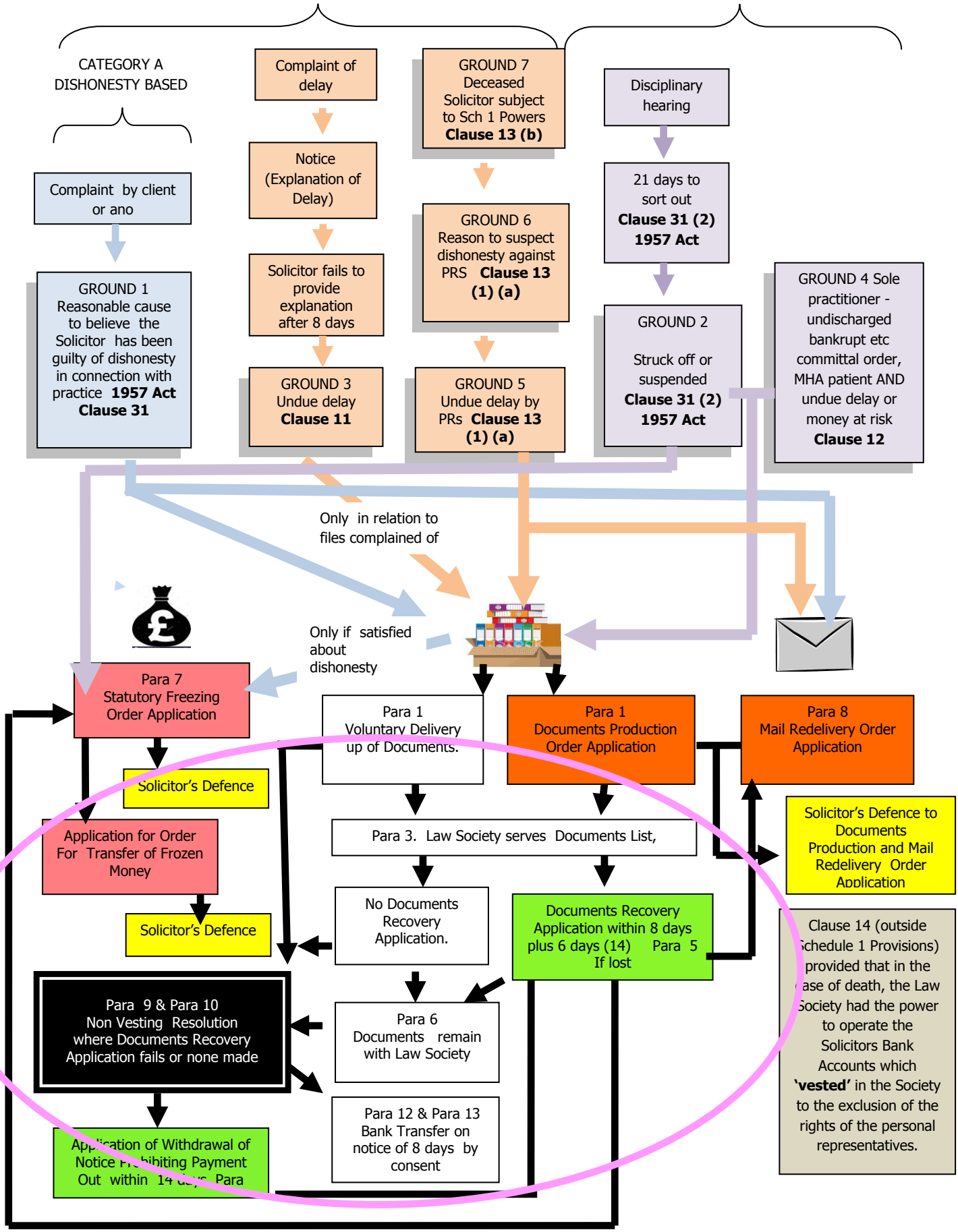
Para 14**.**

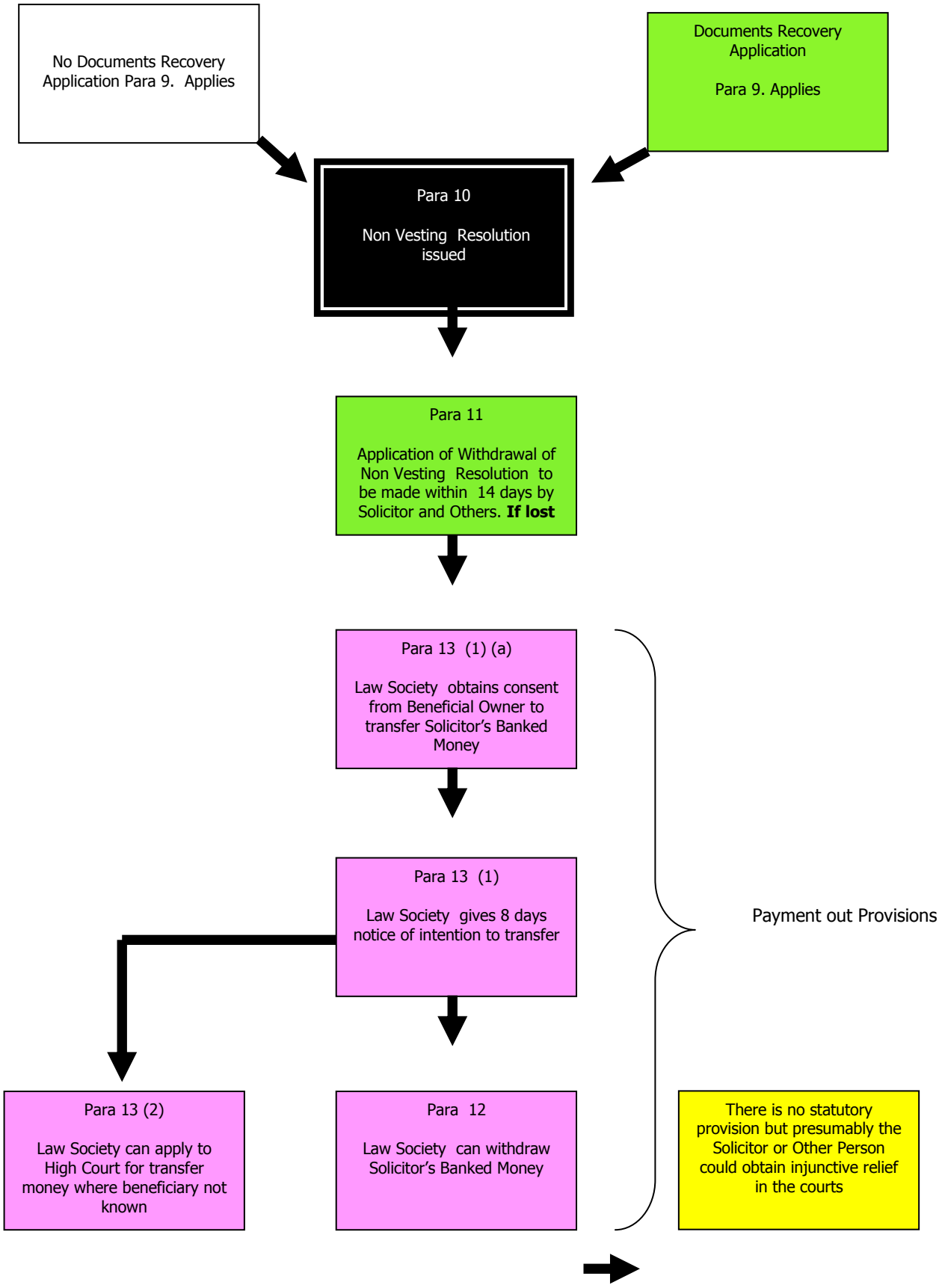
If any person fails to comply with the requirements of any notice given under paragraph 10 or 13 of this Schedule,

(a) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty pounds; and

(b) the High Court or a judge thereof may, on the application of the Society, order that person to comply with the requirements of the notice within such time as may be specified in the order.

2) DIAGRAMS


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.


No Documents Recovery Application Para 9. Applies
Documents Recovery Application
Para 9. Applies
Para 10
Non Vesting Resolution issued
Para 11
Application of Withdrawal of Non Vesting Resolution to be made within 14 days by Solicitor and Others. If lost
Para 13 (1) (a)
Law Society obtains consent from Beneficial Owner to transfer Solicitor's Banked Money
Para 13 (1)
Law Society gives 8 days notice of intention to transfer
Payment out Provisions
Para 13 (2)
Law Society can apply to High Court for transfer 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

3) COUNCIL RESOLUTION GAVE RIGHT TO TAKE CONTROL THE SOLICITOR'S BANKED ACCOUNTS

Under Para 10 the Law Society had the right to take control of the Solicitor's Banked Money

> 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, and for that purpose the Society shall serve on the solicitor or his firm, and, except where the provisions of section 14 of the Solicitors Act 1965 apply, on any banker and on any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13 of this Schedule.

4) CONTROL GIVEN AFTER INTERVENTION HADE CONCLUDED

Para 9 provides that the provisions of Para 10 ff only apply after the Documents Production Procedure had been concluded and lost or if the Solicitor had made no challenge.

> Para 9.
>
> In any case where the Society has taken possession of documents under paragraph 1 of this Schedule, and has not been required to return them by virtue of paragraph 5 thereof, the following paragraphs shall apply, but without prejudice to the application of paragraph 17 thereof so far as it affects any of the preceding paragraphs thereof.

In other words, the Law Society only gained control of the Solicitor's Banked Money after the Intervention challenged had been concluded and lost when

1) The Solicitor's Bank Accounts had been frozen under the Statutory Freezing Order Procedure,
2) The Documents had been delivered up, and
3) A Mail Redirection Order had probably been obtained.

5) MONEY TRANSFERRED ONLY WITH CONSENT

The transfer of money was governed by Para 12 and Para 13:

> Para 12.
>
> Subject to the service of any notice under paragraph 10 of this Schedule, and to any application that may be made under the last foregoing paragraph, the Society or any person in that behalf appointed by the Society may withdraw the moneys, or from time to time any part of the moneys, in any banking account in the name of the solicitor or his firm, and any moneys in the office of the solicitor or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Society or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm might have operated on, or otherwise dealt with, the said banking account:
>
> Provided that a banker with whom such special account or accounts is or are kept

shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.

Para 13.—

(1) Subject to the two last foregoing paragraphs, the Society may serve a notice on the solicitor, or his firm, or banker or other person upon whom a notice has been served under paragraph 10 of this Schedule, directing that, immediately after the expiration of eight days from the service of the first-mentioned notice, such moneys as are referred to in that notice be transferred in accordance with the directions of the Society:

Provided that—

(b) no such directions shall be given by the Society except with the approval of the person to whom the said moneys belong, being in the case of a trust the trustee, and, where the solicitor is the sole trustee of a trust or a co-trustee thereof only with one or more of his partners, clerks or servants, the person beneficially entitled to such moneys;

(b) the person upon whom such first-mentioned notice has been served as aforesaid shall be under no obligation to ascertain whether such approval has been obtained.

(2) In any case where the Society is unable to ascertain the person to whom the said moneys belong or where the Society otherwise thinks it expedient so to do, the Society may apply to the High Court or a judge thereof for directions as to the transfer of such moneys.

Notice to Account Holder of beneficial owner's consent to the transfer his money elsewhere

The Solicitor's Banked Money remained with the Account Holder until the beneficial owner (often the Client) requested a transfer of his money Para 13 (1) (a) .

If a request was made , the Law Society served the Para 13 Notice , a notice directing the Account Holder to transfer the money within 8 days.

The procedure was subject to the Para 10 Notice having been given and the Non Vesting Resolution Withdrawal Application. The Solicitor would have been able to challenge the application under the prevailing Rules of Court.

Application to Court if beneficial owner not known

Para 13 (2) provided that where the beneficial owner was unknown, the Law Society could make an application to court for directions as to the transfer of the money

Presumably , in this case also, the Solicitor would be able to challenge the application.

Problem where consent not given

If the Solicitor's Banked Money could be transferred only with the consent of the beneficial owner or by Court order where the beneficial owner could not be traced that meant that if a Client refused to transfer his money elsewhere , regardless of any findings made against the Solicitor, his money would remain in the Solicitor's Bank Accounts, albeit under the control of the Law Society

iv) THE NEW CONCEPTS

1) 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.....

=

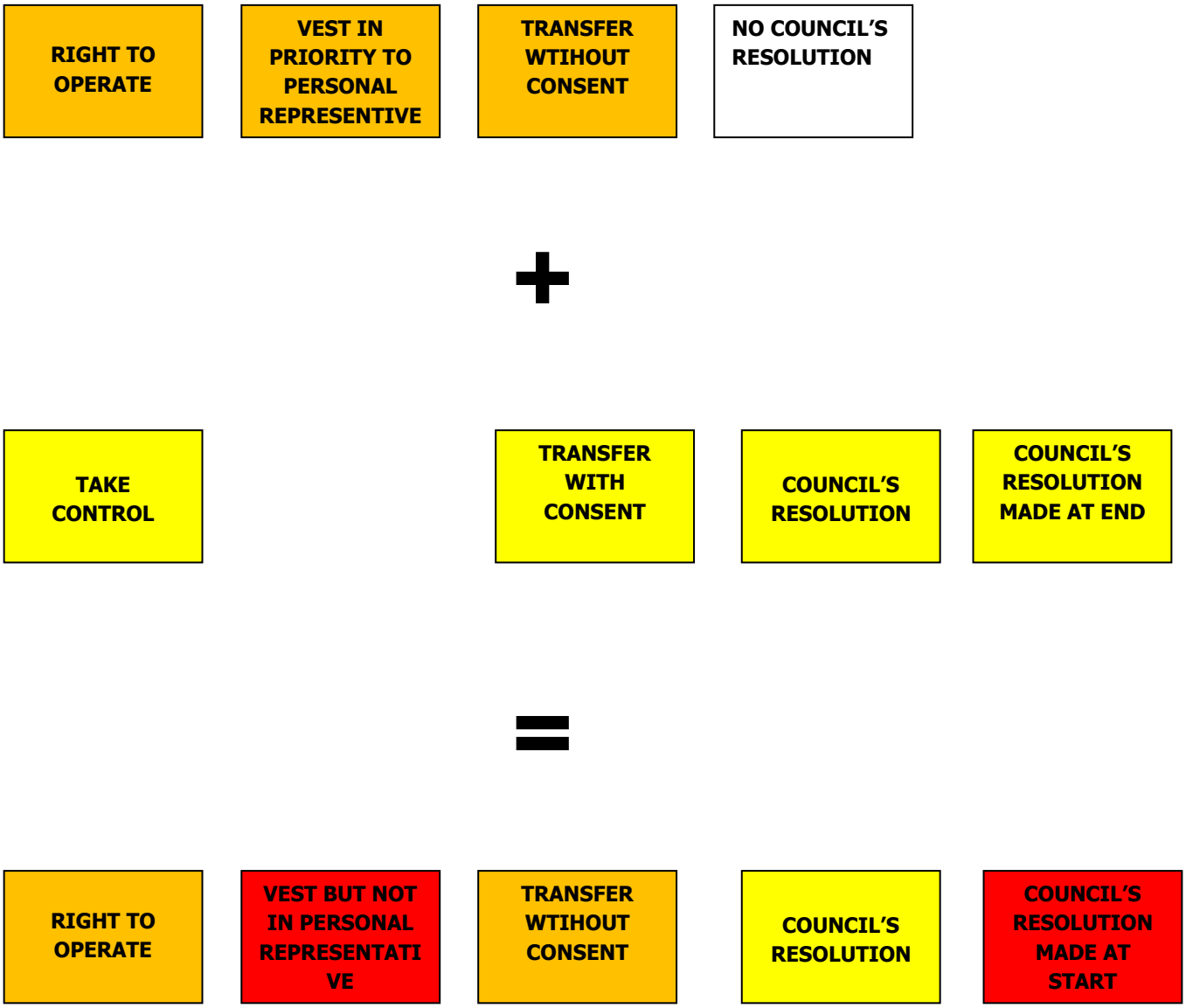
RIGHT TO OPERATE **AND** **TRANSFER WTIHOUT CONSENT** **AND** **TAKE CONTROL**

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 ...

2) 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



The Law Society's theft of the Solicitor's Banked Money is essentially based on two elements

1) The concept of vesting. The term is taken from s 14 of the 1965 Act where it has a limited technical meaning in trusts law. It s misapplied in the 1974 Act (a) because it refers to the vesting of Practice Money and (b) because it connotes unfettered control, including the right of transfer.

2) The fact that the Council's Resolution is made at the start of the process whereby the Solicitor's Banked Money is 'vested' in the Law Society means that the money is, in effect, stolen in a single act with no real right of recovery by the Solicitor.

b) THE DISTINCTION BETWEEN VESTED RIGHTS AND VESTED INTERESTS MEANS THAT THE 1974 ACT VESTING RESOLUTION WITHDRAWAL HEARING COULD NOT HAVE BEEN SUBSTANTIVE

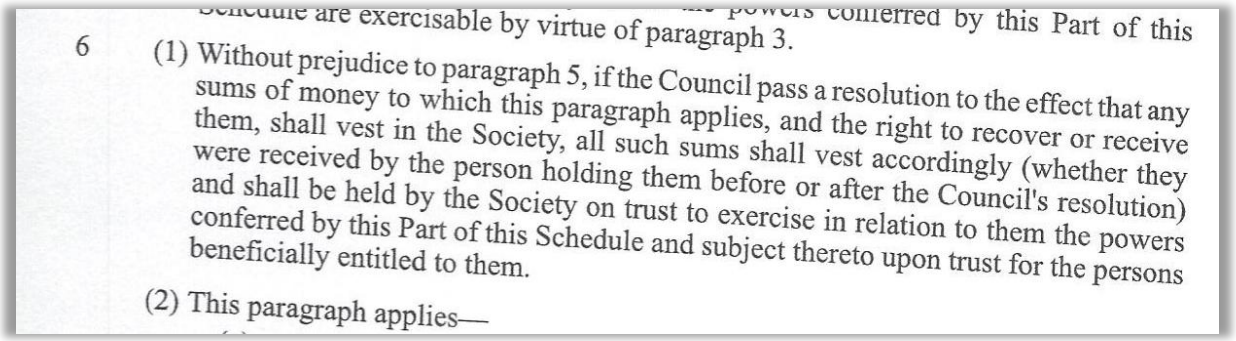
There is a difference between 'vested rights' and 'vested interest'. A simple and rudimentary explanation of this difficult concept is based on the following extract:

> In law, vesting is the point in time when the rights and interests arising from legal ownership of a property is acquired by some person. Vesting creates an immediately secured right of present or future deployment. One has a vested right to an asset that cannot be taken away by any third party, even though one may not yet possess the asset. When the right, interest, or title to the present or future possession of a legal estate can be transferred to any other party, it is termed a vested interest.

Para 6 (1) states that under the Council's Resolution

1) The right to recover or receive (sic the Solicitor's Banked Money) **shall** vest and

2) (sic the Solicitor's Banked Money) **Shall be held** on trust for those benefically entitled



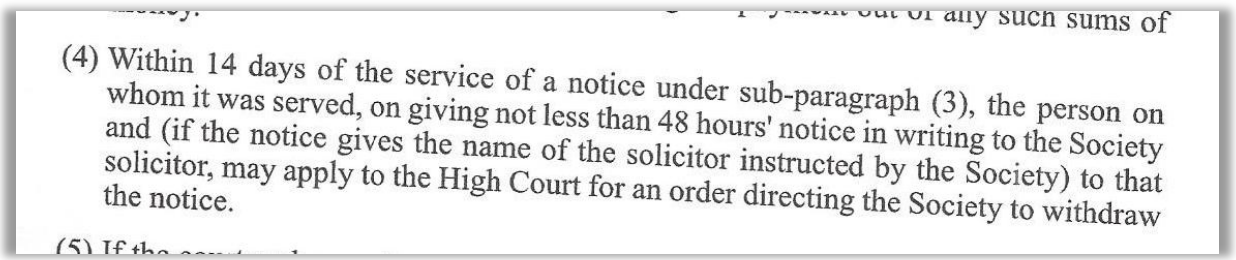
Schedule are exercisable by virtue of paragraph 3. ... powers conferred by this Part of this

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 applies—

Para 6 (4) provides for the making of the Withdrawal Application directing the Withdrawal of the Notice Prohibiting Payment Out.

(For the purpose of this argument the Withdrawal Applicaiton is treated as being an application for the Withdrawal of the Vesting Resolution, which it is not)

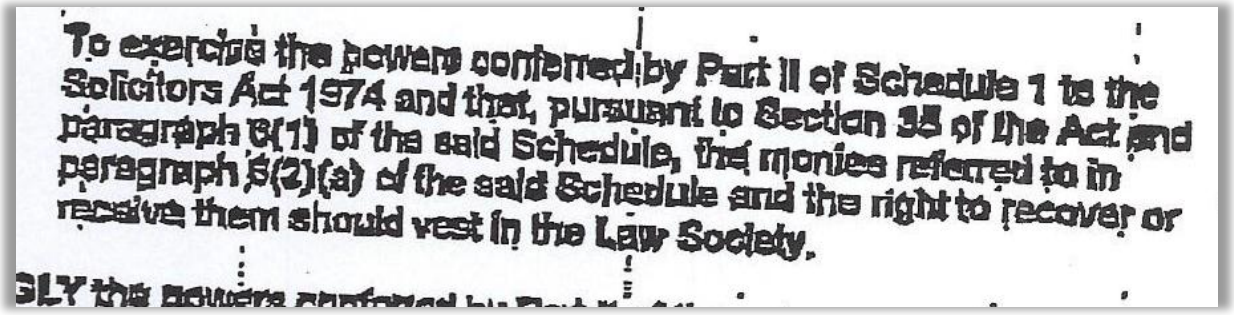


... payment out of any such sums of

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the ...

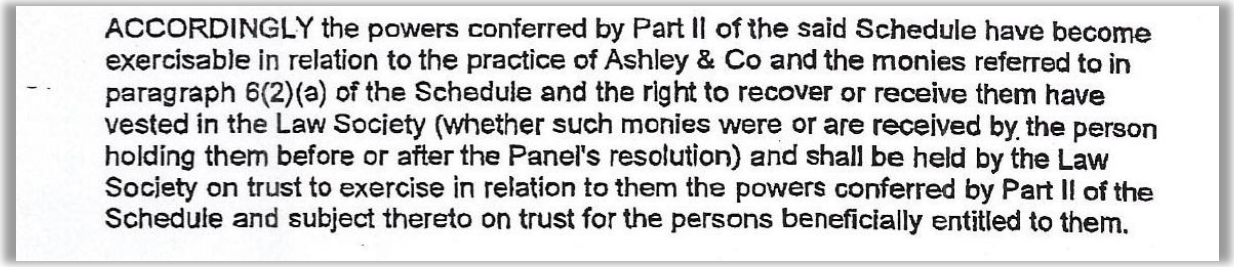
The document which is the purportedly the Vesting Resolution provides that the right to recover or receive (sic the Solicitor's Banked Money) **should vest** in the Law Society


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.

The Para 6 (3) Notice Prohibiting Payment Out provides that

1) The rights to recover (sic the Solicitor's Banked Money) **have vested**

2) The Solicitor's Banked Money is held on trust for the persons beneficially entitled to them


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.

From the aforegoing, the following principles can be extracted:

1. There is a difference between

   1) vested right and
   2) vested interests

   There is also a difference been

   1) rights which are vested
   2) rights which should be vested, and
   3) rights which will be vested

2. Para 6 (1) refers to rights **will vest**; the Para 6 (1) Vesting Resolution refers to rights which **should vest**; the Para 6 (3) Notice Prohibiting Payment Out refers to **vested** interests. They are all inconsistent with each other.

3. If the right has vested it cannot be divested. It follows that the Vesting Resolution Withdrawal Hearing cannot be a substantive hearing at which the whole intervention is challenged. If it were substantive, the Solicitor (or other applicant) might succeed and the Vesting Resolution would be withdrawn. If the Vesting Resolution is withdrawn, the rights which have vested are divested, which according to the stated principle is impossible.

4. Rrights and interest cannot be vested under Para 6 (1) because to be vested , the Money must be transferred (so as to create an immediately secured right of present or future deployment) for which a court order is needed

5. There is an inherent conflict in Para 6 (1) because on the one hand it provides for vesting and on the other it provides for the holding of the money on trust for beneficial owners

2 QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE , THE GOVERNMENT AND THE ATTORNEY GENERAL

62. Is the Vesting Resolution only, in effect, a Company Resolution **Part 2C5 Page 1007**

63. For nearly 50 years the Judiciary, the Law Society, the Government and the Attorney General have treated the Vesting Resolution as a freezing order. What led them to believe it was a freezing order ?

64. Did the Legislature intend the Vesting Resolution to have the effect of a freezing order?

65. The Legislature says that the Vesting Resolution can be a mere letter. How can a letter be a freezing order? **Part 2C5 Page 1008**

66. Did the Legislature intend the Vesting Resolution to be some a mere notification of Third Parties' interests?

67. If the Vesting Resolution is a freezing order, what are the rules and procedures which apply in the making of it . There appear to be none. **Part 2C5 Page 1008.**

68. If the Vesting Resolution is a freezing order , is the requirement for signing it satisfied **Part C25 Page 1010-1011**

69. If the Vesting Resolution is a freezing order, is requirement for certification in accordance with 1974 Act s.80(3) satisfied **Part 2C5 Page 1011-Page 1012**

70. If the Vesting Resolution is a freezing order, is it certified at all **Part 2C5 Page 1012**

71. If the Vesting Resolution is a freezing order is the requirement that a certified copy of the Vesting Resolution be served satisfied? **Part 2C5 Page 1012**

72. If the Vesting Resolution is a freezing order is the Vesting Resolution served at all ? **Part 2C5 Page 1012**

73. The Vesting Resolution only applies to Vesting Resolution Relevant Money as defined. If the Vesting Resolution is a freezing order how will Bank know what money it should freeze and what money it should not freeze? **Part 2C5 Page 1051-1053**

74. If the Vesting Resolution is a freezing order it will inevitably contravene the statute when it is used to freeze the Solicitor's Bank Accounts **Part 2C5 Page 1053-1054** How can one statutory provision contravene another statutory provision?

75. If the Vesting Resolution is a freezing order, how can Ground 8 Relevant Money (as defined) be frozen **Part 2C5 Page 1054**

76. If the Vesting Resolution is a freezing order, how can Banks pay out money to the Law Society (which they do) **Part 2C5 Page 1055**

77. If the Vesting Resolution is a freezing order, what is the point of the Para 5 (1) Statutory Freezing Order Procedure **Part 2C5 Page 1055**

78. If the Vesting Resolution is a freezing order there is duplication because of Para 5. Does that mean one provision is void? Which one?

79. If the Vesting Resolution is a freezing order, how would the Bank recognise it as such? **Part 2C5 Page 1055- 1065**

80. If the Vesting Resolution is a freezing order **,** how would the Bank know whether or not the Law Society has complied with the statute so as to be able to use it as a freezing order **Part 2C5 Page 1066**

81. If the Legislature intended the Vesting Resolution to be a freezing order, why did it not make it clear? **Part 2C5 Page 1067**

82. Is there a distinction between 'vested rights' and 'vested interests', and if so, it is relevant in the Law Society's use of the Vesting Resolution to terminate solicitors' practices **2C5 Page 1042- 1044**

83. What does 'vest' mean? Does it mean transfer? Did Parliament intend the word to have a legal meaning? **Part 2C5 Page 1013- 1041, Page 1076**

84. Why did the Legislature distinguish between 'vesting' and 'taking possession. **Part 2C5 Page 1076-1077**

85. At **Part 2C5 Page 1044-1067** I show that the Vesting Resolution cannot be a freezing order. Am I right ?

86. If the Vesting Resolution is a freezing order an instrument of fraud **Part 2C5 Page 1013- 1044**

87. If the Vesting Resolution is a transfer authorisation to the Bank how can an instrument created without rules, created without reasons, created in circumstances which are not known, created by parties whose identities are not known, and which may only be computer generated document do what has never been done in the history of banking **Part 2C5 Page 1067- Page 1071**

88. If the Vesting Resolution is a transfer authorisation to the Bank , how can the Law Society of England and Wales have more power against a bankrupt solicitor, a mentally ill solicitor, or a solicitor who has breached an Account Rule than international law enforcement agencies have against convicted criminals or that the most powerful nations on Earth have over sanctioned terrorists and despots? **Part 2C5 Page 1072- Page 1074**

89. If the Vesting Resolution is a transfer authorisation to the Bank ,how can a Vesting Resolution made by the Law Society's Council have more power than a statutory freezing order made by a High Court Judge **Part 2C5 Page 1075**

90. If the Vesting Resolution is a transfer authorisation to the Bank, why does Para6 (6) make it a criminal offence for the Bank to transfer money out after it has been served with the Vesting Resolution ? **Part 2C5 Page 1075**

91. Why did the Legislature provide that a Bank which has committed a Para 6(6) Offence faces a penalty equivalent to not having a TV licence, being intoxicated in public or urinating in public **Part 2C5 Page 1975-1076**

92. Why would the Legislature expect the public to trust the Law Society and its solicitors with their money **Part C5 Page 1077**

93. If the Vesting Resolution is a transfer authorisation to the Bank , when combined with an order made by the Judiciary on a without notice interim application , it can theoretically be used to cause a financial meltdown on global scale of a magnitude never before seen in man's history and one which will end modern civilisation. **Part C5 Page 1078-1112.** Did Parliament intend that?

94. Will the Attorney General state whether the Legislature, the Government and the Judiciary created the Vesting Resolution for the Executive (the Law Society) and the Judiciary to commit the Law Society's Intervention Fraud?

J THE LAWFUL INTERVENTION PROCEDURE VS THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE

1 ANALYSIS

1) THE DIFFERENCE BETWEEN SUBSTANTIVE PROCEEDINGS AND ADMINISTRATIVE PROCEEDINGS

1) WHAT ARE SUBSTANTIVE PROCEEDINGS

A substantive hearing in the context of an intervention is one in which the exercise by the Law Society's of its Schedule 1 Powers is tested and in which the Solicitor's right to practice, his Right to Property, his reputation, ,his professional future is at stake.

The Substantive Proceedings are not governed by the Schedule 1 Provisions, such as the 8 or 14 day time limit for the making of the application. They are governed by the rules of court which apply to the conduct of claims generally, namely:

1) The Law Society has to file a Claim to start the proceedings. the Solicitor would be given a clear statement of the Law Society's case against him, whether in the form of a witness statement or affidavit evidence;

2) The Solicitor has 21-28 days to file a Defence . He can also apply for an extension of time to respond;

3) The Solicitor can require the Law Society to particularise the Claim;

4) The Solicitor can require the Law Society to provide further information ;

5) The Solicitor can apply to strike out parts of the Claim;

6) The Solicitor can amend his Defence;

7) The Law Society has to file witness statements or affidavit evidence supporting its case against the Solicitor;

8) The Law Society has to disclose all its evidence;

9) The Solicitor can require the Law Society disclose particular evidence;

10) The Solicitor can subpoena Law Society witnesses;

11) The Solicitor can call his own witnesses and give oral evidence;

12) A preliminary hearing would take place to deal with procedural aspects of the case prior to trial;

13) Trial Bundles would be agreed.

14) The Substantive Proceeding would take a year to 18 months to come to trial.

2) WHAT ARE NON SUBSTANTIVE OR ADMINISTRATIVE PROCEEDINGS

Non substantive hearings are not concerned with the substantive issues in the case. They are concerned with the administrative and procedural matters

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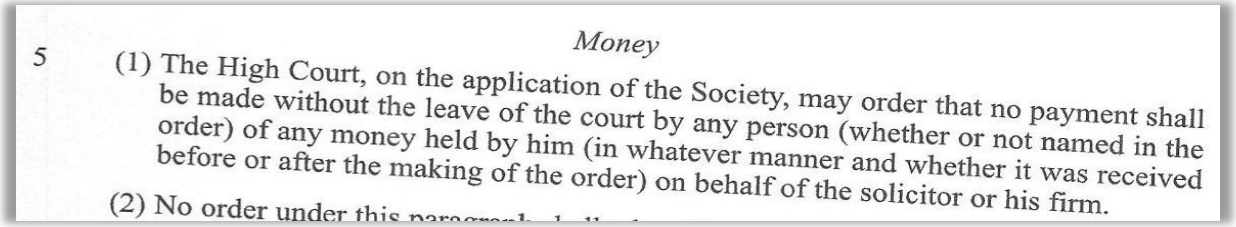
3) THE SUBSTANTIVE PROCEDURES

a) PARA 5 (1) THE STATUTORY FREEZING ORDER APPLCATION



Money

5 (1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.

(2) No order under this paragraph

Schedule 1 Para. 5(1) entitles the Law Society to make an application to the High Court for the Statutory Freezing Order freezing the Solicitor's Bank Accounts

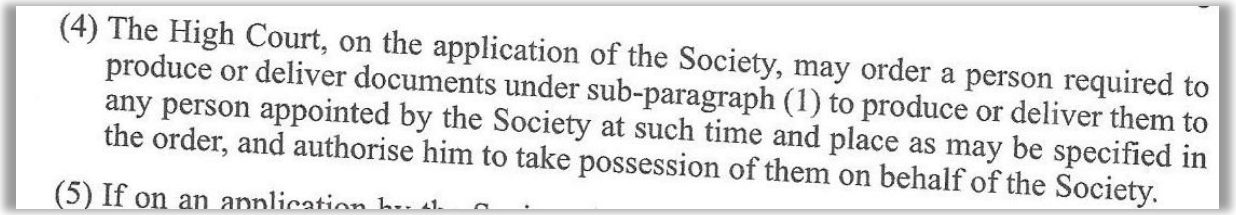
The Statutory Freezing Order Application can be made in the case of the following Grounds:

1) Ground 1. Dishonesty by Solicitor or Ors
2) Ground 2 and Para 2. Delay by Personal Representative on Death of Sole Solicitor (both Office and Client Account)
3) Ground 3. Breach of Account Rules
4) Ground 4. Bankruptcy
5) Ground 5. Prison
6) Ground 6. Mental Health Act Cases
7) Ground 7. Solicitor Struck Off/Suspended
8) Ground 9 No Delay by Personal Representative . Death of Sole Solicitor

The Statutory Freezing Order Application cannot be made in the case of Ground 8. No Explanation for Delay

b) PARA 9 (4) THE DOCUMENTS PRODUCTION ORDER APPLICATION

Para 9(4) provides that the Law Society must apply to the High Court for an order that the Solicitor produce the Solicitor's Documents.

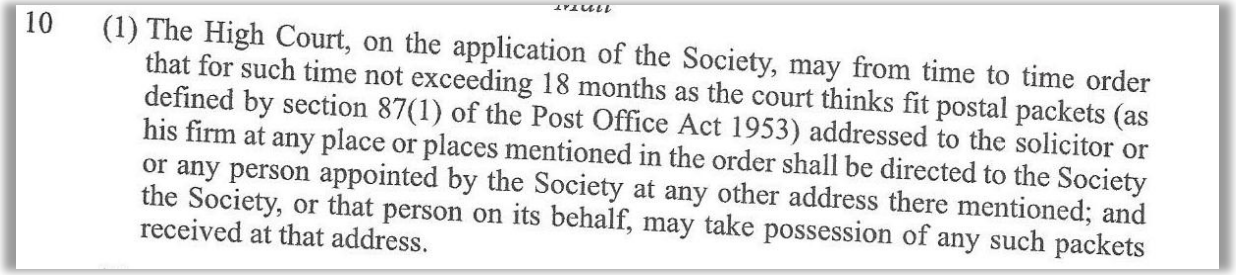


(4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

(5) If on an application by th...

c) PARA 10 (1) THE MAIL REDELIVERY ORDER APPLICATION

Para 10(1) provides that the Law Society must apply to the High Court for a Mail Redelivery Order

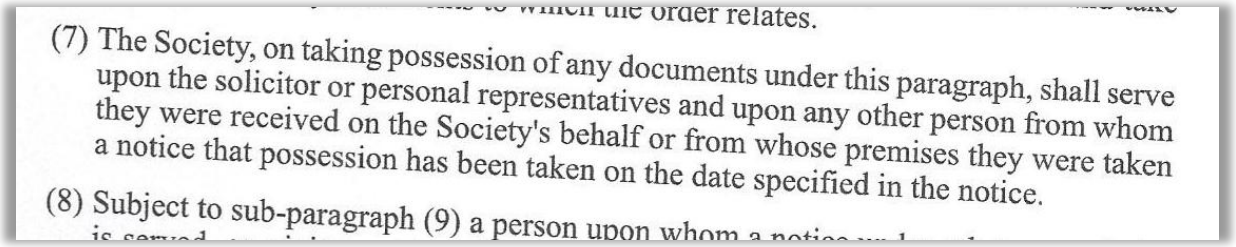


10 (1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court thinks fit postal packets (as defined by section 87(1) of the Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address.

4) THE NON SUBSTANTIVE ADMINISTRATIVE PROCEDURES

a) PARA 9 (7) SERVICE OF THE LAW SOCIETY'S DOCUMENTS LIST

Para 9 (7) provides for the service by the Law Society of the Documents List following the delivery up of the Solicitor's Documents.



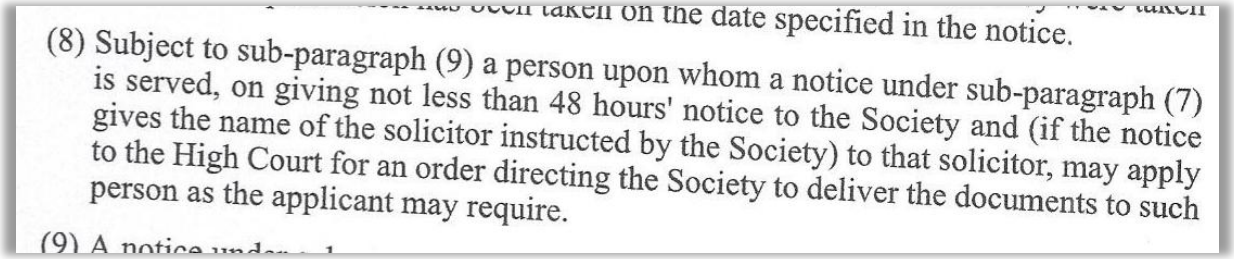
...to which the order relates.

(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice ...

b) PARA 9 (8) THE DOCUMENTS RECOVERY APPLICATION

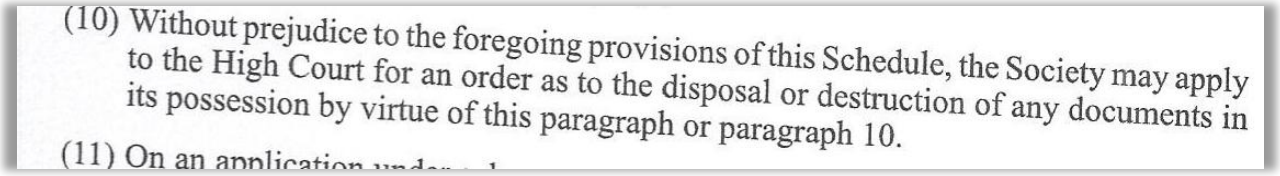
Para 9(8) provides for the Documents Recovery Application made by the Solicitor or other party



(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under

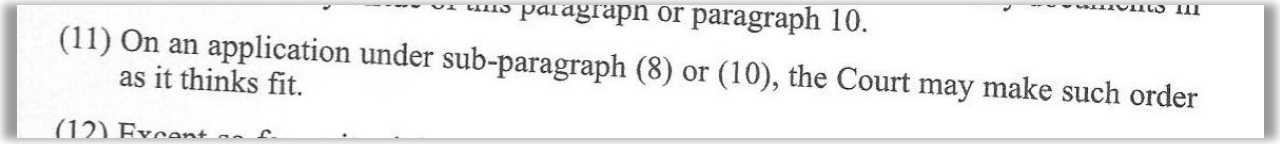
c) PARA 9 (10) THE DOCUMENT DISTRUCTION APPLICATION



(10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10.

(11) On an application under

d) PARA 9 (11) THE MAKING OF THE SUPPLEMENTAL ORDER (DOCUMENTS)

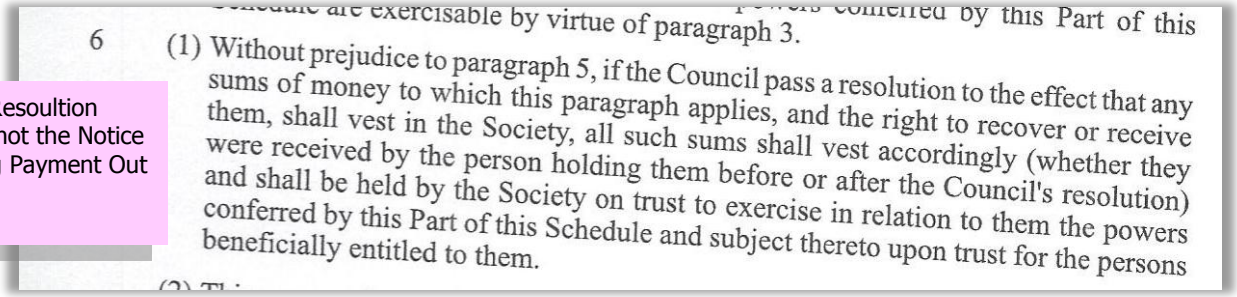


(11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit.

(12) Except as

e) PARA 6 (1) THE ISSUING OF THE VESTING RESOLUTION

Para. 6(1) provides that, without prejudice to the right to make the Statutory Freezing Order Application, the Council of the Law Society can pass the Vesting Resolution



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

Vesting Resoultion referred, not the Notice Prohbiting Payment Out

f) PARA 6 (2) VESTING RESOLUTION RELEVANT MONEY

If passed, the Vesting Resolution has the following effects in relation to Vesting Resolution Relevant Money

1) The Vesting Resolution Relevant Money vests in the Law Society
2) The right to recover Vesting Resolution Relevant Money vests in the Law Society
3) The right to receive Vesting Resolution Relevant Money vests in the Law Society

Vesting Resolution Relevant Money is held

1) on trust in relation to the exercise of the Intervention Powers in relation to the money
2) on trust for the persons beneficially entitled.

g) PARA 6 (3) THE SERVICE OF (1) CERTIFIED COPY OF THE VESTING RESOLUTION AND (2) THE NOTICE TO SOLICITOR AND PARA 6 (3) THIRD PARTIES PROHIBITING PAYMENT OUT

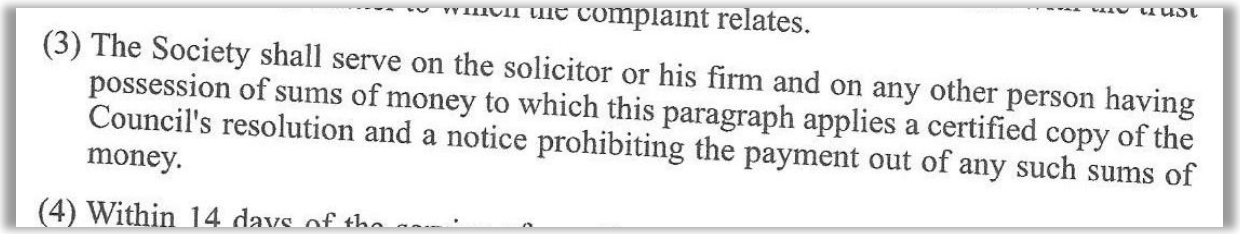
Para. 6 (3) provides for the service of

1) a certfied copy of the Vesting Resolution, and
2) the Notice Prohibiting Payment Out

The Vesting Resoultion and Notice Prohibiting Payment Out are two distinct things

The documents have to be served upon

1) the Solicitor or his firm
2) any other person having Vesting Resolution Relevant Money (the Para 6(3) Third Parties)



to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the

h) PARA 6 (4) WITHDRAWAL OF THE NOTICE PROHIBITING PAYMENT OUT

Para. 6(4) provides that within 14 days of service of the Para 6 (3) Notice Prohibiting Payment Out and on 48 hours notice, the Solicitor or any of the Para 6(3) Third Parties can make an application for the withdrawal of the Notice Prohibiting Payment Out.

Note that it is not an applicaton for the withdrawal of the Vesting Resolution.

The Application concerns only Notice Prohibiting Payment Out

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court ...

i) PARA 6 (5) THE MAKING OF THE SUPPLEMENTAL ORDER (MONEY)

Para 6 (5) provides that at the Notice Prohibiting Payment Out Withdrawal Application, the court can make any order.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any ...

5) NO PROCEDURE FOR PARA 7 (1) POSSESSION OF MONEY

Para 7 makes provision for the holding of Vesting Resolution Relevant Money by the Law Society upon taking possession of it.

The Schedule 1 Provisions are silent as to how the Law Society would obtain possession of the Vesting Resolution Relevant Money .

... conviction to a fine not exceeding £50.

7 (1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, and any such person shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.

(2) A bank at which a special ...

6) CRIMINAL PROVISIONS

a) PARA 6 (6) TRANSFER OF VESTING RESOLUTION RELEVANT MONEY

Para 6 (6) provides that if any person who has been served with the Notice Prohibiting Payment Out pay outs money, he is liable on summary conviction to a fine not exceeding £50.00

matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(1) If the Society takes possession of

b) PARA 9 (3) FAILURE TO MAKE VOLUNTARY DOCUMENT PRODUCTION WHERE PARA 9 (4) APPLICATION NOT MADE

Para 9 (3) provides that any person who fails to give Document Production pursuant to Para 9 (1) commits a criminal offence .

(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.

(4) The High Court, on the

2) THE LAWFUL INTERVENTION PROCEDURE

i) THE COMMENCING RESOLUTION ISSUED TO START INTERVENTION

The Council's Resolution (or the Commencing Resolution, which is to be distinguished from the Vesting Resolution) resolved upon the Intervention.

Lord Stow refers to the Para 9 (4) Application for a Document Production Order as being the start of the process because, before the introduction in 1991 of s 44B when for the first time the Law Society had the right to examine the Solicitor's Documents outside the Schedule 1 Provisions, the only way in which the Law Society could investigate the Solicitor was by intervening. Parliament viewed the first stage of the Intervention as being an investigatory process.

All that meant was that the Law Society could start the Intervention Procedure with any, or all, of Law Society's Substantive Applications.

First Presentation of the Bill

2 March 1972

LORD STOW HILL

One significant change that is made is that the words "reasonable cause to believe" have been deleted, and the words "reason to suspect" have been substituted for them. If, therefore, the Council has reason to suspect dishonesty on the part of the solicitor it can, in terms of Schedule 1 of this Bill, by notice put into operation in relation to that solicitor the full powers which are contained in Schedule 1 of this Bill.

I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if **that notice has been** given; in other words, if the Council has reason to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that **notice has been given**; in other words, if the Council has reason to suspect dishonesty it can give notice, and then it can exercise among other powers the following:

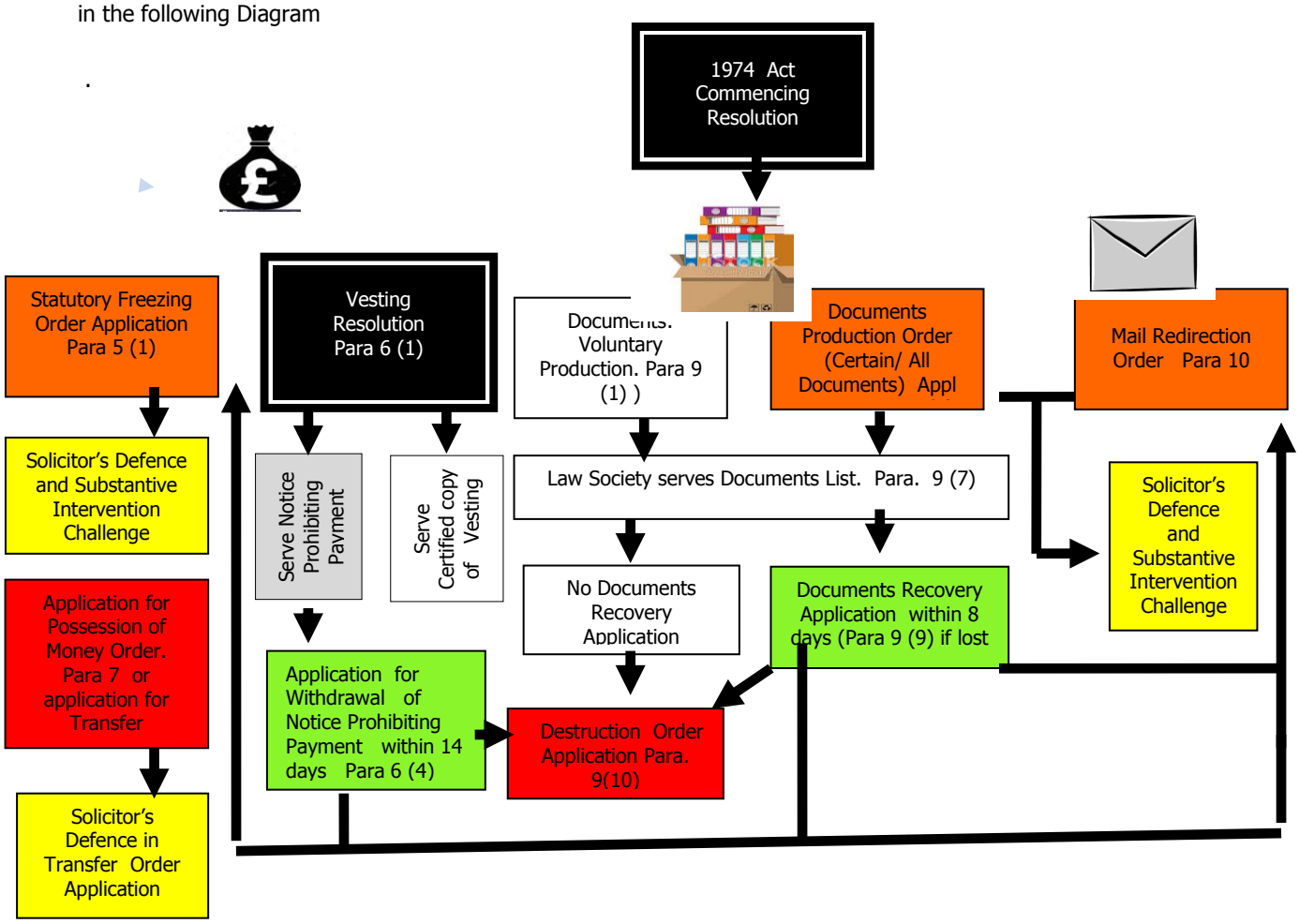
"The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (whether or not the documents are the property of the solicitor or his firm), or relating to any controlled trust.

"If any person having possession or control of any such document fails to comply forthwith with any requirement made under this paragraph, he shall be guilty of an offence and he liable on summary conviction to a fine not exceeding £50."

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

The procedure showing the use of the Commencing Resolution and Vesting Resolution is illustrated in the following Diagram

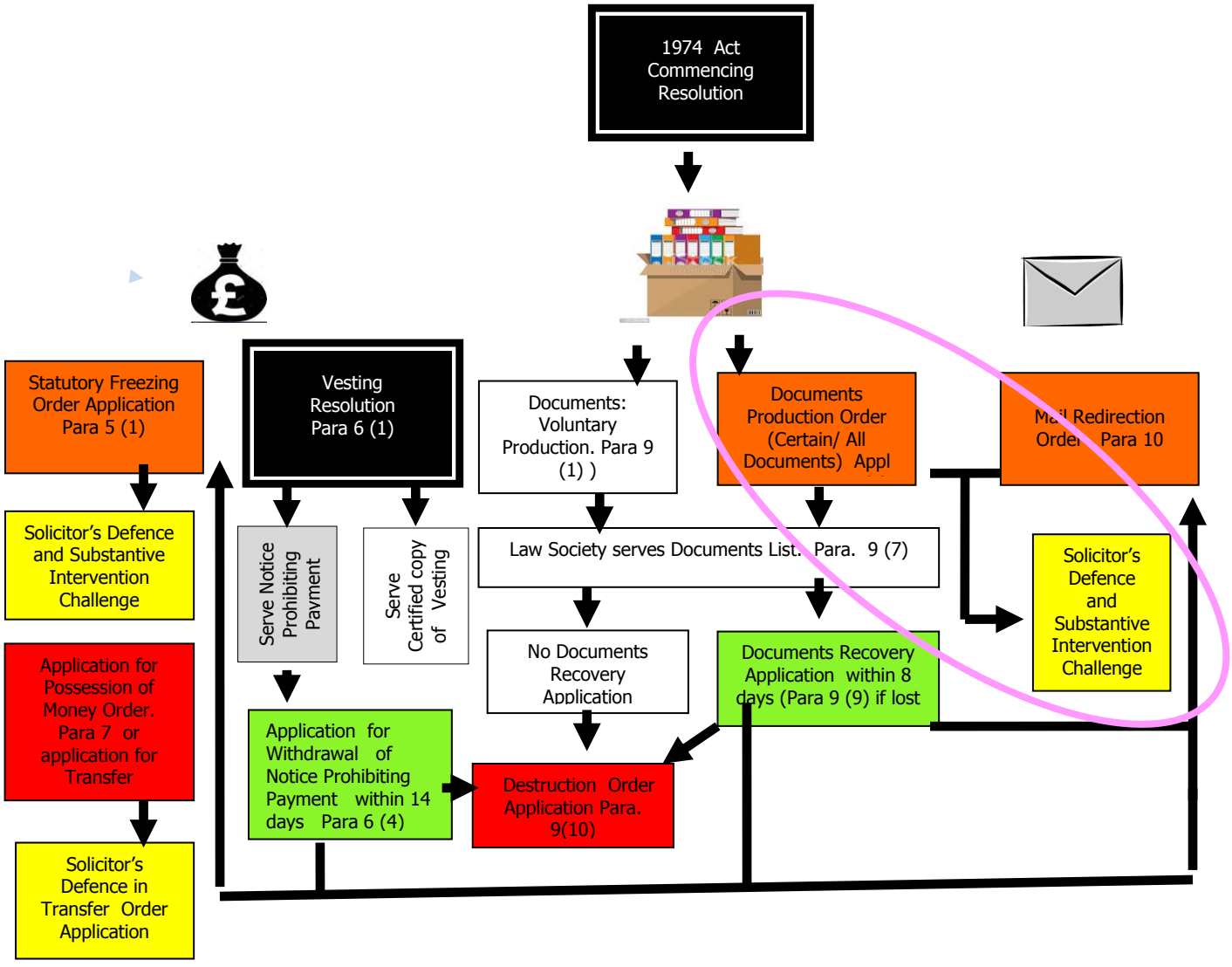
.



ii) INTERVENTION STARTS WITH THE LAW SOCIETY'S SUBSTANTIVE CLAIMS MADE IN THE HIGH COURT

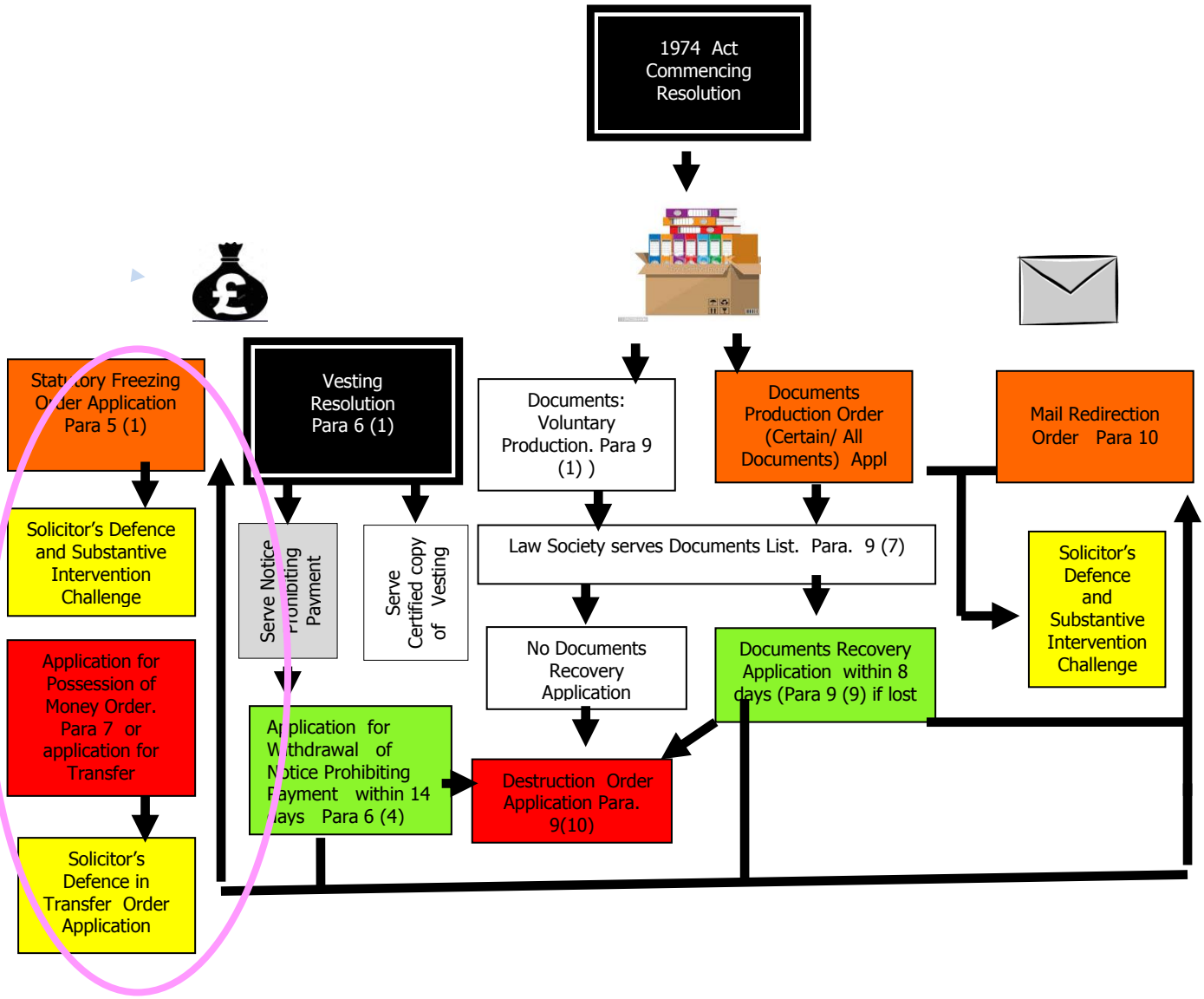
1) PARA 9 (4) THE DOCUMENTS PRODUCTION ORDER APPLICATION

The Documents Production Procedure is encircled in pink in the following diagram.



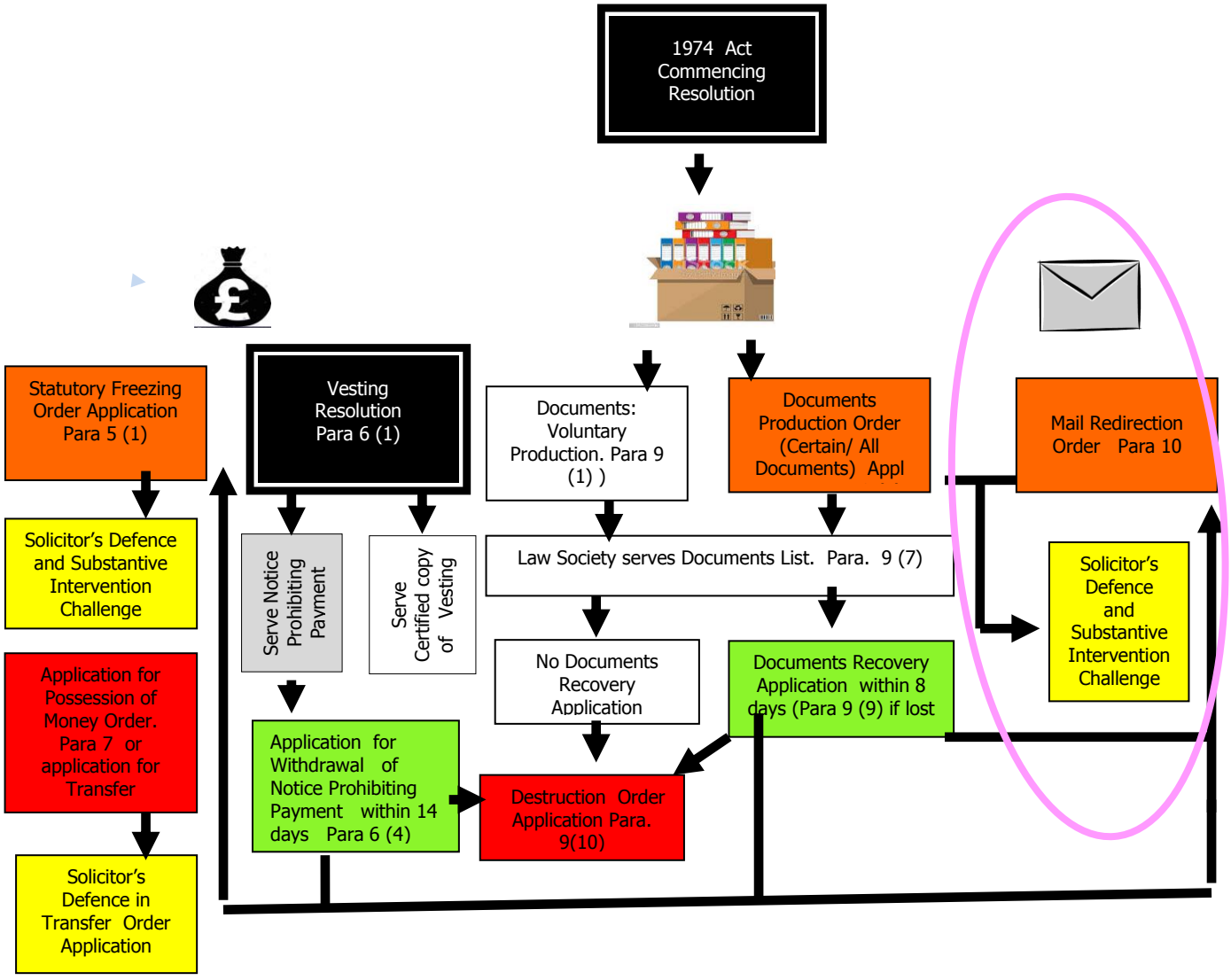
2) PARA 5 (1) THE STATUTORY FREEZING ORDER APPLICATION

The Statutory Freezing Order Procedure is encircled in pink in the following diagram.



3) PARA 10 (1) THE MAIL REDELIVERY ORDER APPLICATION

The Mail Redelivery Procedure is encircled in pink in the following diagram.



iii) SOLICITOR'S INTERVENTION CHALLENGE IS HIS DEFENCE IN THE HIGH COURT PROCEEDINGS

The Solicitor's challenge to the Intervention would be made within the Substantive Proceedings, which are governed by the Civil Procedure Rules and not by the statutory provisions. The Law Society would file a Particulars of Claim which the Solicitor would defend; the Solicitor would be able to make applications within the proceedings, for example, to strike out the Law Society's or for an order requiring the Law Society to particularise its Claim ; the rules of documentary and witness evidence would apply.

The Law Society would presumably invoke its Schedule 1 Powers only where it had strong evidence that the Ground had arisen, so it can be assumed that the Substantive Proceedings would be determined relatively speedily. The Disciplinary Tribunal offered a more appropriate forum for complex, lengthy and uncertain cases.

iv) ORDERS MADE ON FAILED INTERVENTION CHALLENGE

If the Intervention challenge failed:

1) The Para 9 (4) Document Production (Final) Order would be made ;
2) The Para 5(1) Statutory Freezing Order would be made ;
3) A Mail Redelivery Order would be made;
4) The Transfer of Money Order might be made, or might be delayed for the reasons mentioned below;
5) The Document Recovery Procedure would commence.

v) PARA 9 (8) DOCUMENTS RECOVERY APPLICATION BY THE SOLICITOR AND PARA 9 (7) THIRD PARTIES WHERE INTERVENTION CHALLENGE IS LOST

The Solicitor's Documents will have been produced under the Document Production Order. The Law Society then served the Para 9 (7) Documents List upon any party from whom they were obtained (The Para 9 (7) Third Parties)

The removal of Documents from the Solicitor's Office would be a cumbersome administrative task involving the physical removal and tabulation of hundreds or even thousands, of Documents. Parliament considered that the Documents Recovery Application was a facility to enable any administrative difficulties to be adjudicated upon:

Comment 10 02 July 1965 Page 340

Mr. S. C. Silkin

Suppose that there are documents which were taken by the Society and which are not mentioned in the notice. Under the appeal procedure of paragraph 5, is the solicitor entitled to ask for their return? That is really the point. Had my first Amendment been accepted and had it meant all that I hoped it meant, this Amendment would not have been important; but because the earlier Amendment was not accepted, this one is necessary. A solicitor might say that 16 documents were listed in the notice but that another four documents which were not named in the notice were also taken and that he wants the return of all 20. Is that within the jurisdiction of the court? My Amendment would make it clear that it was. I believe that the present wording leaves it obscure and doubtful

(1) Proceedings in the High Court under Schedule 1 to the Act must be brought –

(a) in the Chancery Division; and

(b) by Part 8 claim form, unless paragraph (4) below applies.

(2) The heading of the claim form must state that the claim relates to a solicitor and is made under Schedule 1 to the Act.

(3) Where proceedings are brought under paragraph 6(4) or 9(8) of Schedule 1 to the Act, the court will give directions and fix a date for the hearing immediately upon issuing the claim form.

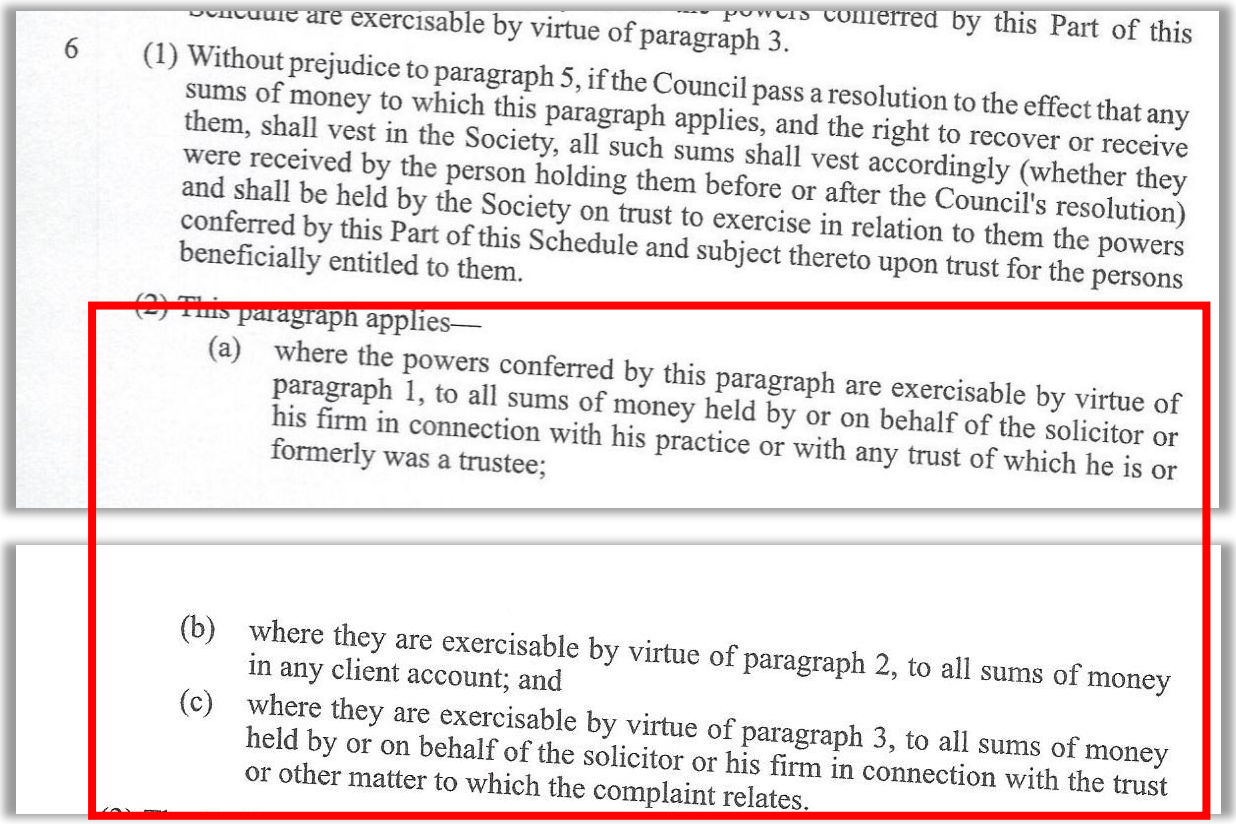
vi) THE VESTING RESOLUTION PROCEDURE

1) A PROCEDURE CONCERNED WITH INTERVENTION MONEY NOT THE INTERVENTION CHALLENGE

The Vesting Resolution Procedure applied to

1) Practice Money
2) Trust Money
3) Ground 8 Relevant Money

(Vesting Resolution Money)



Schedule are exercisable by virtue of paragraph 3.

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 applies—

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;

(b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and

(c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

The Vesting Resolution Procedure enables the parties the Vesting Resolution Parties to protect their interests and to enforce their rights in the Vesting Resolution Money independently of the failure of any challenge to the Intervention..

The Vesting Resolution Parties are:

1) The Solicitor (Grounds 1, 3, 4, 5 6, 7, and 8)
2) The Personal Representative (Ground 1, and 2)
3) The Official Receiver (Ground 6)
4) The Trustee in Bankruptcy (Ground 4)
5) Third Parties in possession of Vesting Resolution Money who would include:

    a) The Solicitor's Banks
    b) Financial institution holding stocks, shares and securities as controlled trust money in general client accounts;
    c) Institutions holding rolling share dealing accounts;
    d) Another firm of Solicitors with whom the intervened upon Solicitor might have deposited Money to avoid the intervention or in anticipation of working under that firm's aegis;
    e) A firm holding the Solicitor's Practice Money on a hold to order undertaking, say in a conveyancing transaction
    f) A firm holding the Solicitor's Practice Money pending completion of a settlement
    g) Other persons having control or possession of Practice Money.

    (The Third Parties)

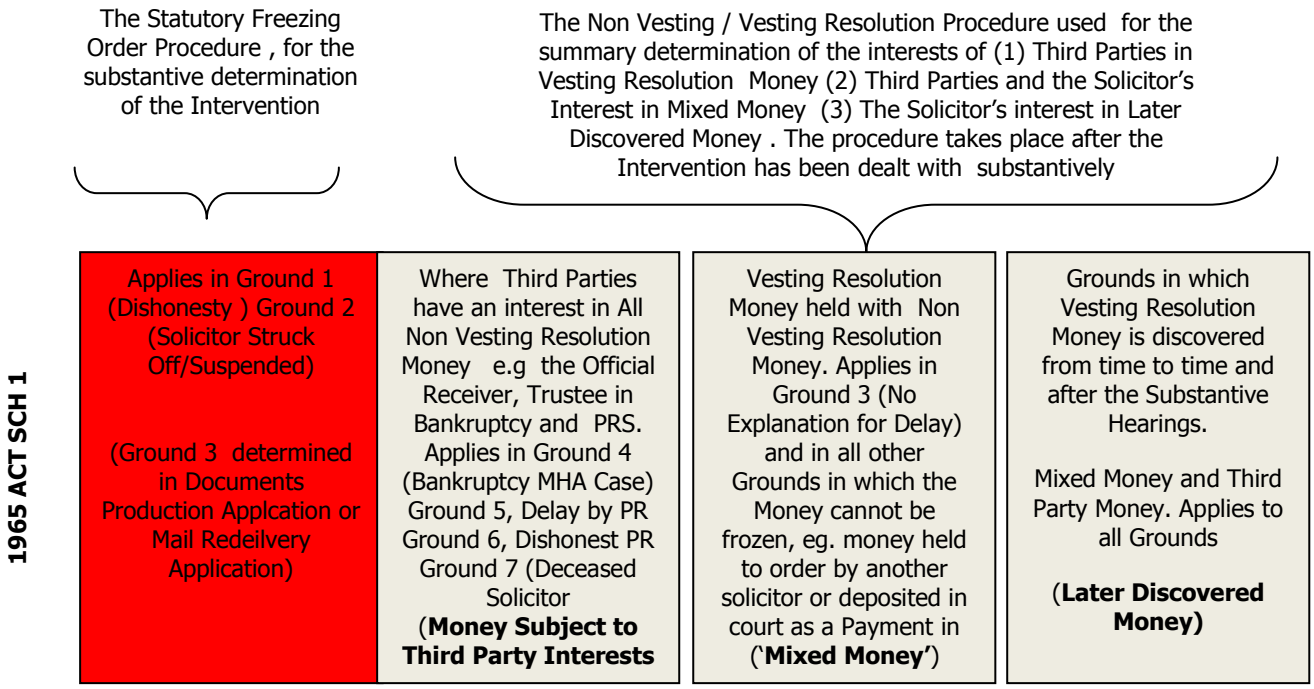
The Vesting Resolution Money fall into three categories:

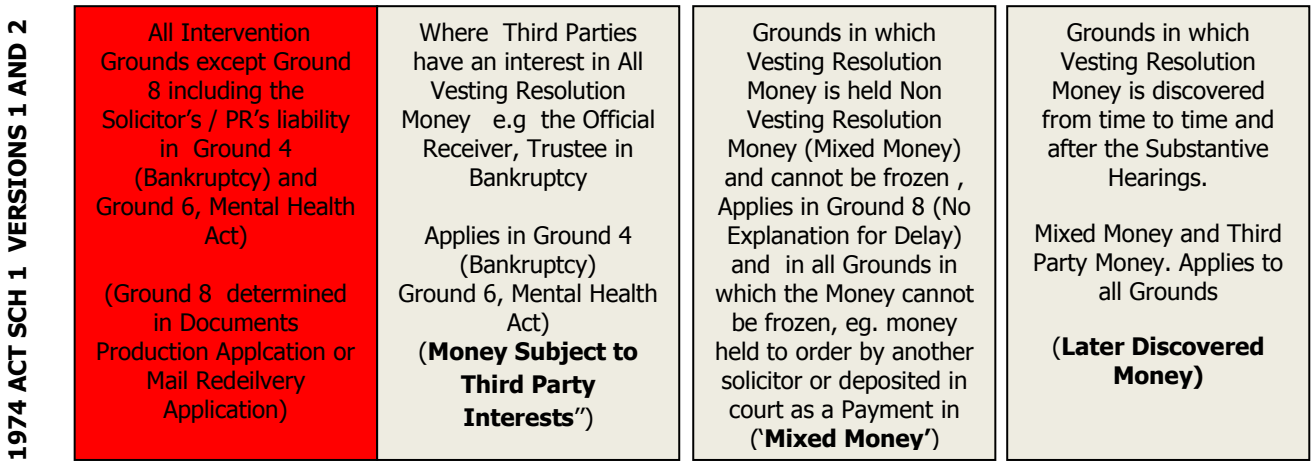
1) Money subject to Third Party Interests
2) Mixed Money
3) Later Discovered Money

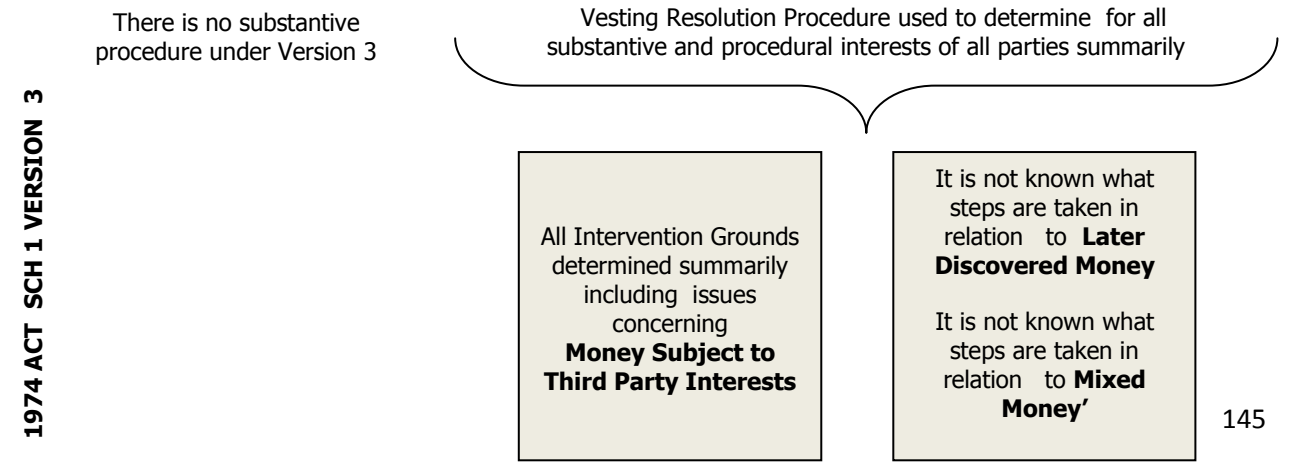
2) WHEN THE VESTING RESOLUTION PROCEDURE APPLIES

1965 ACT	STATUTORY FREEZING ORDER AVAILABLE?	1974 ACT	STATUTORY FREEZING ORDER AVAILABLE?	CAN ACCOUNT BE FROZEN UNDER 1974 VESTING RESOLUTION ?
Ground 1 (Dishonesty by Solicitor or Ors)	Yes, subject to Satisfaction of Dishonesty	Ground 1 (Dishonesty by Solicitor or Ors)	Yes	Yes
Ground 6 (Dishonest Personal Representative)	No	Ground 1 PR's Dishonesty(Dishonest Personal Representative)	Yes	Yes
Ground 5 PRs (Delay by Personal Representative.)	No	Ground 2 (Delay by Personal Representative. Death of Sole Solicitor),	Yes	Yes
		Ground 3 (Breach of Account Rules),	Yes	Yes
Ground 4 (Bankruptcy or Mental Health Act Case AND Delay and Client Money at Risk)	No	Ground 4 (Bankruptcy)	Yes	Yes
		Ground 5 (Prison)	Yes	Yes
Ground 4 (Mental Health Act Cases)	No	Ground 6 Mental Health Act (Mental Health Act Cases)	Yes	Yes
Ground 2 (Solicitor Struck Off/Suspended) ,	Yes	Ground 7 (Solicitor Struck Off/Suspended) ,	Yes	Yes
Ground 3 (No Explanation for Delay)	No	Ground 8 (No Explanation for Delay)	No	Yes, but only for Ground 8 Relevant Money

THE APPLICATION OF THE VESTING RESOLUTION PROCEDURE







c) MONEY SUBJECT TO THIRD PARTY INTERESTS

This category comprises

1) Ground 4 (Bankruptcy) Interventions , and

2) Ground 6 Mental Health Act (Mental Health Act Cases) Interventions

These are Interventions

- which are subject to the Statutory Freezing Order Procedure
- in which Third Parties (the Trustee in Bankruptcy and the Official Receiver) have rights in the Vesting Resolution Money which conflict with the Law Society's rights and interests, but
- in which , unlike the Third Parties (the Personal Representatives) in Grounds 1 (Dishonest Personal Representative) and in Ground 2 (Delay by Personal Representative. Death of Sole Solicitor) they have no interest in the Intervention itself.

The parties who are subject to the Vesting Resolution Procedure in this category and upon whom the Law Society should serve the Para 6 (1) Vesting Resolution and Para 6(3) Notice Prohibiting Payment Out are:

1) The Trustee in Bankruptcy

2) The Official Receiver

3) The Third Parties

d) MIXED MONEY

This category consists of all cases in which Vesting Resolution Money is held in an account together with other money which is not Vesting Resolution Money and therefore cannot be frozen under the Statutory Freezing Order Procedure, namely :

1) In Ground 8 (No Explanation for Delay) Interventions, which Schedule 1 specifically excludes from the Statutory Freezing Order Procedure.

2) In all Grounds in which there are circumstances in which the Money cannot be frozen, for example:

   a) Financial institution holding stocks, shares and securities as controlled trust money in general client accounts ;
   b) Institutions holding rolling share dealing accounts;
   c) Another firm of Solicitors with whom the intervened upon Solicitor might have deposited Money to avoid the intervention or in anticipation of working under that firm's aegis;

d) A firm holding the Solicitor's Practice Money on a hold to order undertaking, say in a conveyancing transaction

e) A firm holding the Solicitor's Practice Money pending completion of a settlement

f) Other persons having control or possession of Practice Money.

('Mixed Money)

The parties in this category to whom the Vesting Resolution Procedure applies and upon whom the Law Society must serve the Para 6 (1) Vesting Resolution and Para 6(3) Notice Prohibiting Payment Out are:

1) The Third Parties

Where the Vesting Resolution Money concerns Mixed Money , the Para 6 (1) Vesting Resolution and Para 6(3) Notice Prohibiting Payment Out would never be served on

1) The Solicitor
   The Personal Representative in Ground 1 Interventions
2) The Personal Representative in Ground 2 Interventions
3) The Trustee in Bankruptcy in Ground 4 Interventions
4) The Official Receiver in Ground 5 Interventions

because they would never hold Mixed Money . Only Third Parties would hold Mixed Money . All the money Solicitor or Personal Representative would hold would be Vesting Resolution Money and the Trustee in Bankruptcy would only have interests in Vesting Resolution Money.

e) LATER DISCOVERED MONEY

Vesting Resolution Money may be discovered days, weeks, months, even years after the Solicitor's Practice has closed down (which shows that Intervention is a procedure, and not the single act it is treated as being under the Law Society's Fraudulent Intervention Procedure)

3) VESTING RESOLUTION PROCEDURE CONTEMPLATES MULTIPLE PARTIES MAKING REPEATED PARA 6(4) APPLICATIONS AFTER THE SOLICITOR'S PRACTICE HAS CLOSED DOWN

As and when Later Discovered Money comes to light the Law Society would then serve the following documents on the entitled parties:

1. A certified copy of the Part 6 (1) Vesting Resolution
2. The Part 6(3) Notice to Third Party Prohibiting Payment Out

The parties who might be subject to the procedure would be:

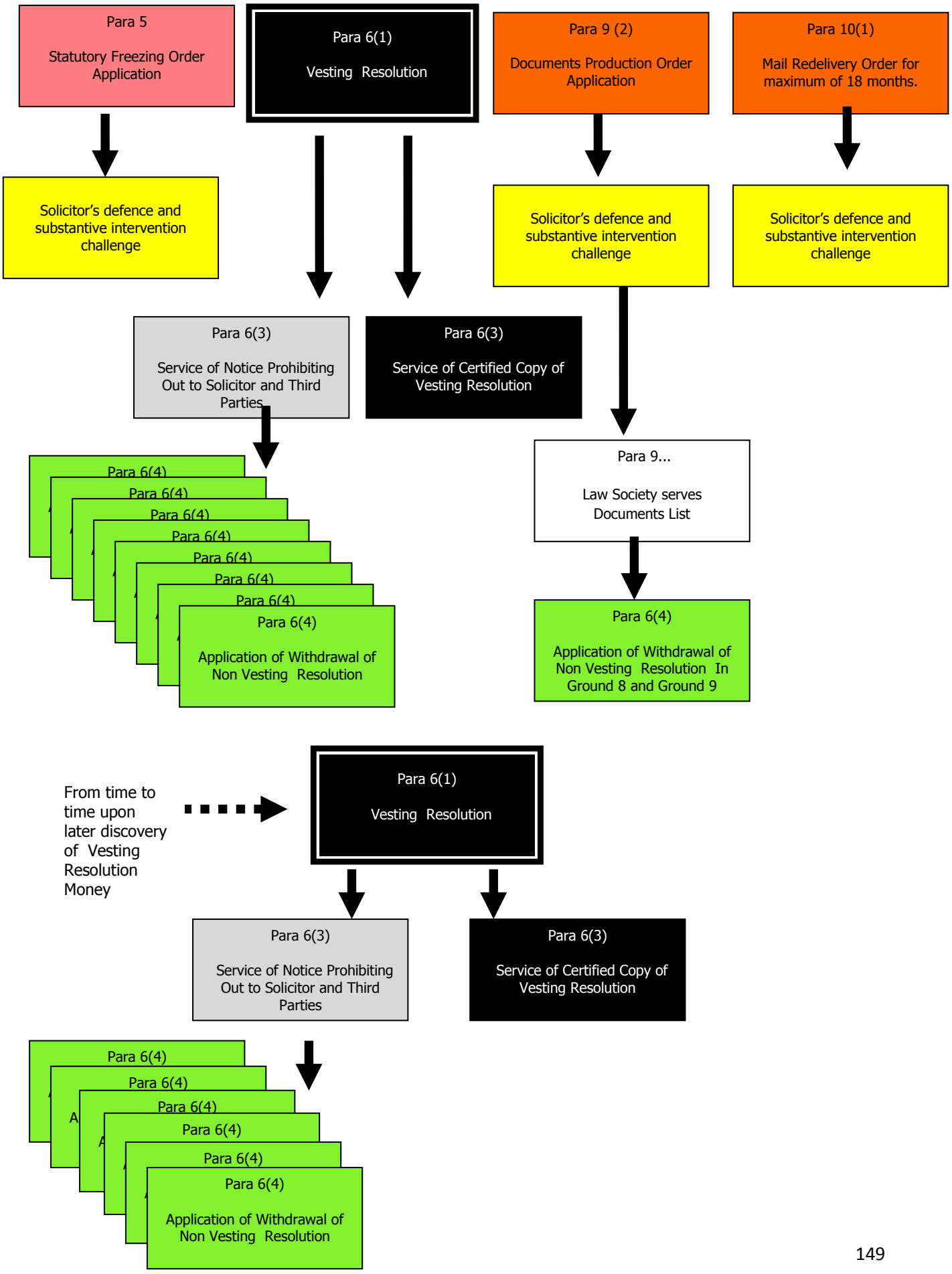
1) The Solicitor
2) The Personal Representative in Ground 1 Interventions
3) The Personal Representative in Ground 2 Interventions
4) The Solicitor's Banks (discovered later)

5) Financial institution holding stocks, shares and securities as controlled trust money in general client accounts;
6) Institutions holding rolling share dealing accounts;
7) Another firm of Solicitors with whom the intervened upon Solicitor might have deposited Money to avoid the intervention or in anticipation of working under that firm's aegis;
8) A firm holding the Solicitor's Practice Money on a hold to order undertaking, say in a conveyancing transaction
9) A firm holding the Solicitor's Practice Money pending completion of a settlement
10) Other persons having control or possession of Practice Money.

The Trustee in Bankruptcy and the Official Receiver would not be involved at this stage because their interests will have been determined by the Para 6(4) Applications made during or shortly after the Substantive challenge.

4) DIAGRAM SHOWING THE USE OF THE VESTING RESOLUTION PROCEDURE

1974 ACT VESTING RESOLUTION PROCEDURE VERSION 2



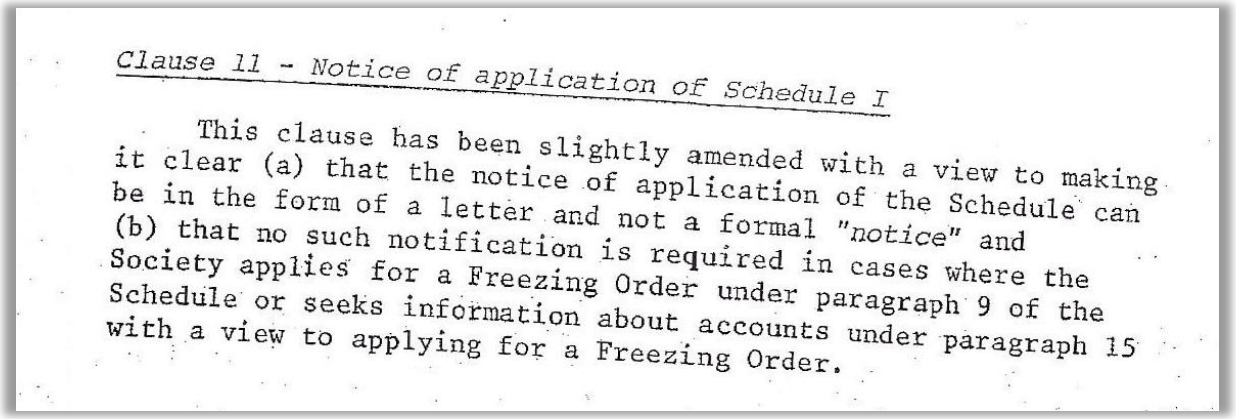
vii) SERVICE OF PARA 6(1) VESTING RESOLUTION AND PARA 6(3) THIRD PARTIES PROHIBITING PAYMENT OUT COULD BE A MERE LETTER

The Vesting Resolution Procedure is method of putting those Third Parties who would not be involved in the Substantive Proceedings on notice of the Intervention

As stated above, to start the procedure the Law Society has to serve

1. A certified copy of the Part 6 (1) Vesting Resolution
2. The Part 6(3) Notice to Third Party Prohibiting Payment Out

According to the Parliamentary Records 16 March 1972- 23 July 1974 **C4(4)(d)-(e)** the 1965 Act Non Vesting Resolution, the precursor of the Vesting Resolution in the earlier Act, can be in the form of a mere letter



Clause 11 - Notice of application of Schedule I

This clause has been slightly amended with a view to making it clear (a) that the notice of application of the Schedule can be in the form of a letter and not a formal "*notice*" and (b) that no such notification is required in cases where the Society applies for a Freezing Order under paragraph 9 of the Schedule or seeks information about accounts under paragraph 15 with a view to applying for a Freezing Order.

The Vesting Resolution Procedure would be invoked against, and the documents served on, the following parties:

		VESTING RESOLUTION PROCEDURE			SUBSTANTIVE PROCDURE
Grounds	Parties interested in Intervention and in Vesting Resolution Money	Money Subject to Third Party Interests	Mixed Money	Later Discovered money from time to time	Para 5 (1), 9 (4) and 10(1) Substantive Applications
Ground 1 (Dishonesty by Solicitor or Personal Representative)	Solicitor	✗	✗	✓	✓
	Personal Representative	✗	✗	✓	✓
	Third Parties holding Vesting Resolution Money (e.g. the Bank or another Solicitor holding money to order)	✓	✓	✓	✗
Ground 2 (Delay by Personal Representative	Personal Representative	✗	✗	✓	✓
	Third Parties as aforesaid	✓	✓	✓	✗
Ground 3 (Breach of Account Rules),	Solicitor	✗	✗	✓	✓
	Third Parties as aforesaid	✓	✓	✓	✗

	Solicitor	✗	✗	✓	✓
	Trustee in Bankruptcy	✓	✓	✓	✗
Ground 4 (Bankruptcy)	Third Parties as aforesaid	✓	✗	✓	✓
Ground 5 (Prison)	Solicitor	✗	✗	✓	✓
	Third Parties as aforesaid	✓	✗	✓	✓
Ground 6 Mental Health Act (Mental Health Act Cases)	Solicitor	✗	✗	✓	✓
	Official Receiver	✓	✗	✓	✓
	Third Parties as aforesaid	✓	✗	✓	✓
Ground 7 (Solicitor Struck Off/Suspended) ,	Solicitor	✗	✗	✓	✓
	Third Parties as aforesaid	✓	✗	✓	✓
Ground 8 (No Explanation for Delay)	Solicitor	✓	✗	✓	✓
	Third Parties as aforesaid	✓	✓	✓	✓

viii) THE HEARING OF THE PARA 6 (4) APPLICATION FOR WITHDRAWAL OF PARA 6 (3) NOTICE TO THIRD PARTY PROHIBITING PAYMENT

The Solicitor's intervention challenge is determined at the hearing of the Substantive Applications. The issues at these hearing would include:

All Grounds

1) Whether the Solicitors Act 1974 Schedule 1 Provisions applies. It would not apply, for example, if the lawyer was not regulated by the Law Society.

2) Whether the relevant Ground has arisen.

3) Whether the named Solicitor is the proper defendant in the proceedings.

The Law Society has to go through the formality of proving that the defendant is the Solicitor who has been made bankrupt, admitted to prison, or is subject to a Mental Health Act Order and there is no confusion about his name and identity. There are other issues such as whether the bankruptcy order, Mental Health Act Order or Tribunal finding can be relied on, or whether it should be treated as void.

4) Whether the Council had passed the Vesting Resolution, which would require a Council Member to give evidence on oath;

5) Whether the proper procedure had been following in the Council's decision making process;

6) Whether the Solicitor held money to which the Vesting Resolution applied at the material time.

7) Whether the Bank Etc. held money to which the Vesting Resolution applied at the material time.

8) Whether a certified copy of the Vesting Resolution had been served on the Solicitor and on the Bank Etc. The Law Society would have produce evidence of due service.

9) Whether the Para (3) Notice Prohibiting Payment Out had been served on the Solicitor and the Bank Etc. The Law Society would have produce evidence of due service.

Grounds (Reasons Needed)

10) In Ground 3 Interventions to prove that the Law Society has given the Para 2 Notice that he has failed to comply with the rule specified in the notice

11) In Ground 3 Interventions to prove , that the Law Society has given the Para 2 notice that that the Schedule 1 Part II powers have arisen

12) In Ground 8 Interventions to prove that there had been undue delay

13) In Ground 8 Interventions to prove that the Law Society had given the Solicitor Para 1 (3) (b) First Notice

14) In Ground 8 Interventions to prove that the Solicitor had failed to respond (Para 3 (c))

15) In Ground 8 Interventions to prove that the Law Society had given the Solicitor Para 1 (3) (b) Second Notice

16) In Ground 8 Interventions to prove that that the money frozen was Ground 8 Relevant Money

17) In Ground 9 Interventions to prove that if a Vesting Resolution has been served, it has only applied to Client Money

18) In Ground 1 Interventions, that the Solicitor had been dishonest

19) In Ground 2 Interventions, that there had been delay

Non substantive administrative and procedural issues would be tried under the Recovery of Documents Procedure and Withdrawal Procedure.

The issues would be :

1) Whether the Bank Etc. held money at the material time;

2) Was there money in the Bank Etc which was not Vesting Resolution Relevant Money ;

3) In Ground 8 Interventions was there money in the Bank Etc which was not Ground 8 Relevant Money ;

4) Was there money to which the Vesting Resolution as the Solicitor's Personal Money or the Clients Own Money

If the substantive challenge to the intervention takes place at these hearings

1) What is left to be deliberated at the hearing of the Para 9 (8) Application ?

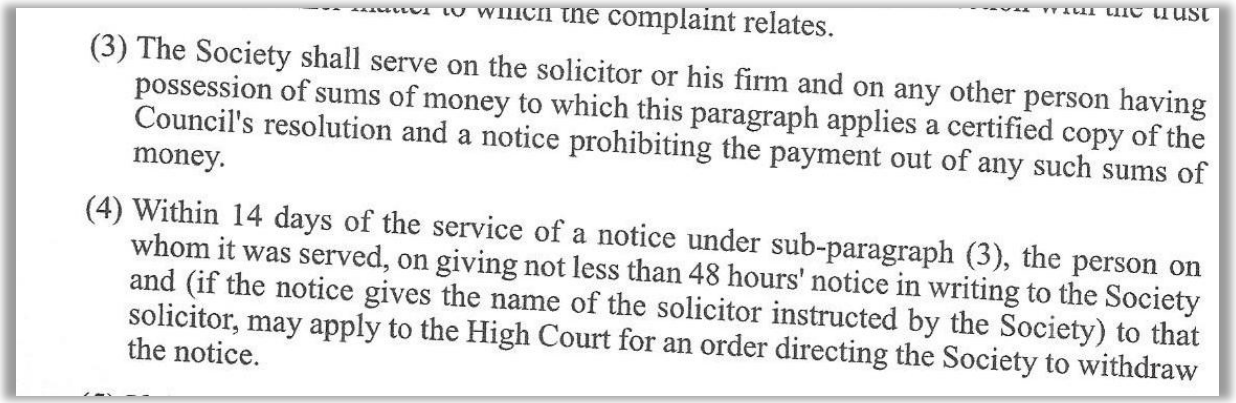
2) As the Para 6(4) Application would have to be deferred until the outcome of the Para 9 (8) Application , what would there be left to be deliberated at the hearing of the Para 6(4) Application?

The following Table shows the substantive and administrative issues in the Intervention and under which procedure they would be determined.

1974 ACT INTERVENTION PROCEDURE .ISSUES AT THE SUBSTANTIVE AND ADMINISTRATIVE HEARINGS			
Grounds	Parties interested in Intervention and in Vesting Resolution Money	Issues at the Substantive Hearings	Issues at the Para 6(4) Hearings
Ground 1 (Dishonesty by Solicitor or PR)	Solicitor	Was the Solicitor guilty of dishonesty?	**Soliicitor** Is the money frozen by the Vesting Resolution the Solicitor's Personal Money Note the ownership of the £254,000 Sheikh –NRAM Remortgage Monies would be dealt with at the Para 6(4) Hearing had the Law Society not returned the money voluntarily, even if Sheikh v The Law Society 2005 (High Court) had been lost Is it Clients Own Money? **Third Parties** Is money held on a hold to order undertake in a conveyancing matter Vesting Resolution Money? What should happen to Money paid into court on account of the Claim? It is Vesting Resolution Money? Money held in an account in the name of the Solicitor Vesting Resolution Money or Personal Money? The Solicitor is the Executor and Trustee. How can the Law Society operate the Trust Account? **Trustee In Bankruptcy**
	Personal Representative	Was the PR guilty of dishonesty?	
	Third Parties holding Vesting Resolution Money (e.g. the Bank or another Solicitor holding money to order)		
Ground 2 (Delay by PR)	Personal Representative	Did the PR delay matters?	
	Third Parties aforesaid		
Ground 3 (Breach of Account Rules),	Solicitor	Did the Solicitor breach the Solicitor's Account Rules	
	Third Parties aforesaid		
Ground 4 (Bankruptcy)	Solicitor	Subject to proof of the fact, defence unlikely	
	Trustee in Bankruptcy		
	Third Parties aforesai		

Ground 5 (Prison)	Solicitor	Subject to proof of the fact, defence unlikely	Does the Vesting Resolution Money subject to claims made under the Insolvency Rules
	Third Parties aforesaid		
Ground 6 (Mental Health Act Cases)	Solicitor	Subject to proof of the fact, defence unlikely	
	Official Receiver		
	Third Parties aforesaid		
Ground 7 (Solicitor Struck Off/Suspended	Solicitor	Subject to proof of the fact, defence unlikely	
	Third Parties aforesaid		
Ground 8 (No Explanation for Delay)	Solicitor	Had there been delay? Had the Solicitor failed to explain?	
	Third Parties aforesaid		

ix) THE PARA 6(1) VESTING RESOLUTION NOT 'WITHDRAWN' ON A SUCCESSFUL INTERVENTION CHALLENGE



matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

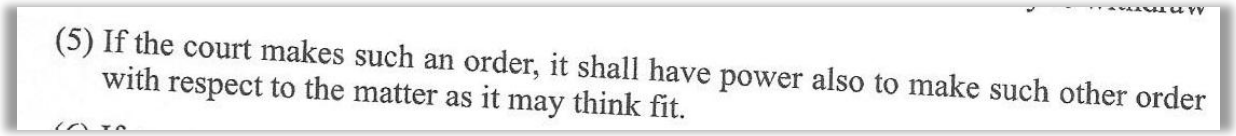
It is clear from Para 6(3) and Para 6(4) that the Para 6(4) Withdrawal Application is for the withdrawal of the Notice Prohibiting Payment Out, not the Vesting Resolution so, even if the application is successful, the Vesting Resolution remains in place.

The Vesting Resolution can be in the form of a letter (see above). Why would a letter need to be withdrawn?

x) TRANSFER OF MONEY

1) THE TRANSFER OF MONEY IN SUBSTANTIVE PROCEEDINGS

Where no party has made a Para 6 (4) Application for the Withdrawal of the Notice Prohibiting Payment Out, the transfer of the Vesting Resolution Money would be made at the Para 5(1) Statutory Freezing Order Application Hearing or , if the application were not made, under the Para 9 (4) Documents Production (Final) Order Application which provides :



(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

2) THE TRANSFER OF MONEY AFTER SUBSTANTIVE PROCEEDINGS UNDER THE VESTING RESOLUTION PROCEDURE

The parties making the Para 6(4) Applications would be the Vesting Resolution Parties, namely :

1) The Solicitor (Grounds 1, 3, 4, 5 6, 7, and 8)
2) The Personal Representative (Ground 1, and 2)
3) The Official Receiver (Ground 6)
4) The Trustee in Bankruptcy (Ground 4)
5) Third Parties in possession of Vesting Resolution Money who would include:

    a) The Solicitor's Banks
    b) Financial institution holding stocks, shares and securities as controlled trust money in general client accounts;
    c) Institutions holding rolling share dealing accounts;
    d) Another firm of Solicitors with whom the intervened upon Solicitor might have deposited Money to avoid the intervention or in anticipation of working under that firm's aegis;
    e) A firm holding the Solicitor's Practice Money on a hold to order undertaking, say in a conveyancing transaction
    f) A firm holding the Solicitor's Practice Money pending completion of a settlement
    g) Other persons having control or possession of Practice Money.

    (The Third Parties)

Where Para 6(4) Applications have been made :

1) In cases which are not dependent on whether the Solicitor wins or loses his challenge, for example where money is held to order in a conveyancing transaction and requires to be released urgently, the Para 6 (4) Hearing could take place and a Transfer of Money Order under Para 6(5) made before the Substantive Hearing

2) In cases in which the application is dependent on whether the Solicitor wins or loses his challenge, the Para 6(4) Hearing would be consequent upon the Substantive Hearing

3) In some cases, even where the Solicitor had lost his substantive challenge to the Intervention, he would still be entitled to make the Para 6(4) Application for Money which he might dispute is Vesting Resolution Money . The £254,000 Sheikh- NRAM Remortgage Money is a case in point. The money was returned before the Substantive Trial which was won, but had the Law Society not returned the money and had I lost, the Para 6(4) Application would have been the route to attempt to recover the Money. How else would the money have been recovered?

3) THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE

i) INTERVENTION STARTS AND ENDS WITH THE PARA 6 (1) VESTING RESOLUTION OR MERE LETTER

There are seven instruments used in the Lawful Intervention Procedure, namely

1) The Commencing Resolution;
2) The Para 5 (1) Statutory Freezing Order;
3) The Para 9 (4) Documents Production (Final) Order;
4) The Para 10(1) Mail Redirection Order;
5) The Transfer Order made in the Statutory Freezing Order Proceedings;
6) The Para 6(1) Vesting Resolution;
7) The Para 6(3) Notice Prohibiting Payment Out.

Under the Law Society's Fraudulent Intervention Procedure, these seven instruments are conflated into a single instrument: the Para 6(1) Vesting Resolution which , as shown above, can be in the form of a mere letter.

According to the Law Society

1) the Vesting Resolution has the effect of a Freezing Order whereby any payments out from Solicitor's Bank Accounts are prohibited ;

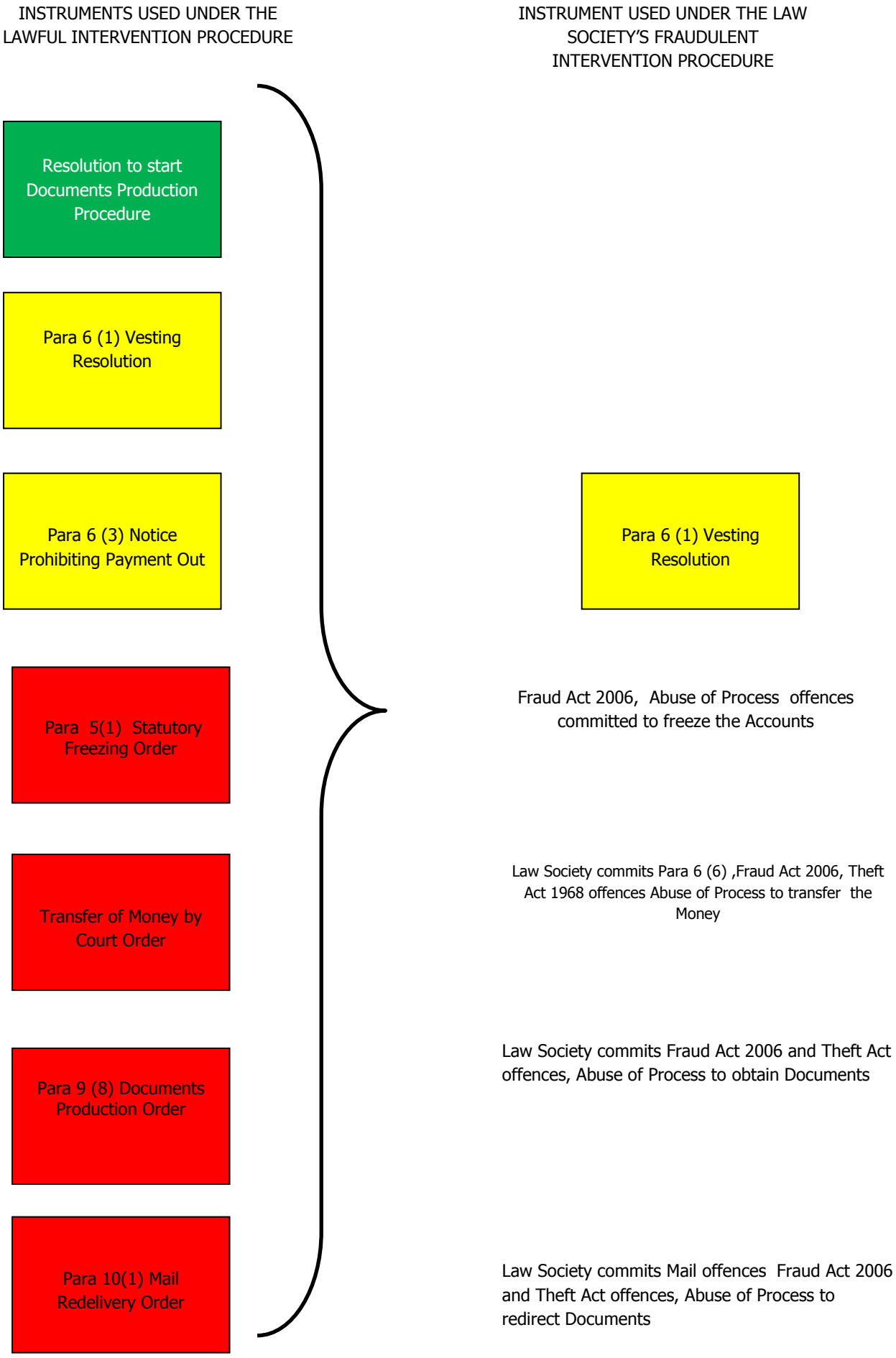
2) the Vesting Resolution has the effect of a Transfer Order whereby by Bank Etc can be required to transfer the Solicitor's Money to the Law Society or to its solicitors;

3) the Vesting Resolution has the effect of a Documents Production Order, whereby the Solicitor's Documents can be seized by the Law Society and retained ;

4) the Vesting Resolution has the effect of Mail Redelivery Order whereby the Solicitor's Mail can be redirected to the Law Society ;

5) the Solicitor has the right to apply to the High Court within 8 (or 14) days of service of the Vesting Resolution for its withdrawal. If he fails to do so the Intervention is completed.

The above is illustrated in the Diagram which follows.


INSTRUMENTS USED UNDER THE LAWFUL INTERVENTION PROCEDURE
INSTRUMENT USED UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE
Resolution to start Documents Production Procedure
Para 6 (1) Vesting Resolution
Para 6 (3) Notice Prohibiting Payment Out
Para 6 (1) Vesting Resolution
Para 5(1) Statutory Freezing Order
Fraud Act 2006, Abuse of Process offences committed to freeze the Accounts
Transfer of Money by Court Order
Law Society commits Para 6 (6) ,Fraud Act 2006, Theft Act 1968 offences Abuse of Process to transfer the Money
Para 9 (8) Documents Production Order
Law Society commits Fraud Act 2006 and Theft Act offences, Abuse of Process to obtain Documents
Para 10(1) Mail Redelivery Order
Law Society commits Mail offences Fraud Act 2006 and Theft Act offences, Abuse of Process to redirect Documents

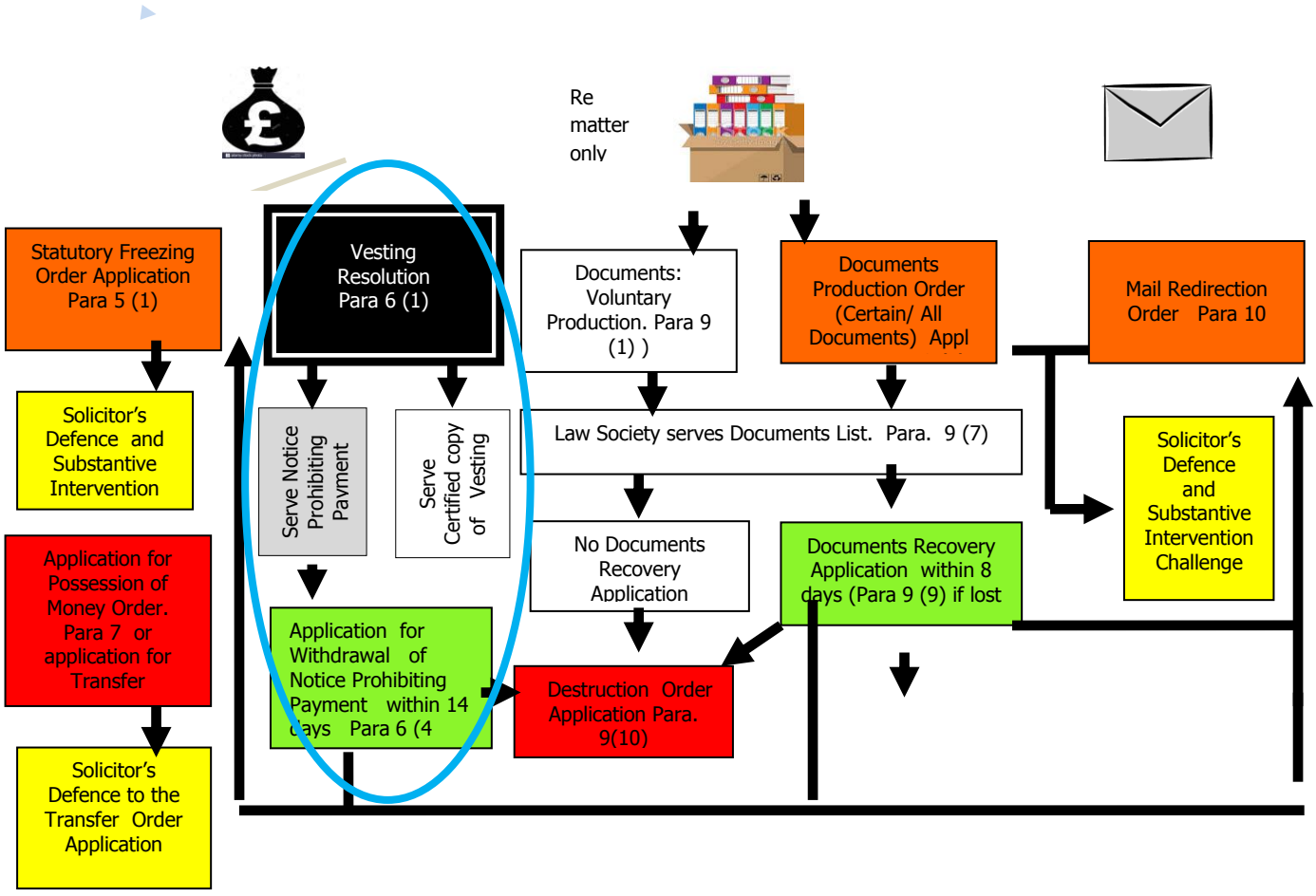
ii) THE SOLICITOR'S INTERVENTION CHALLENGE IS BY WAY OF THE NON SUBSTANTIVE ADMINISTRATIVE PROCEDURES

1) PARA 6 (4) VESTING RESOLUTION WTIHDRAWAL APPLICATION

According to the Law Society , the Solicitor's Intervention challenge is under the Para. 6(4) which provides as follows:

> (4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.
>
> (5) If the court ...

The procedure is shown encircled blue in the following diagram.

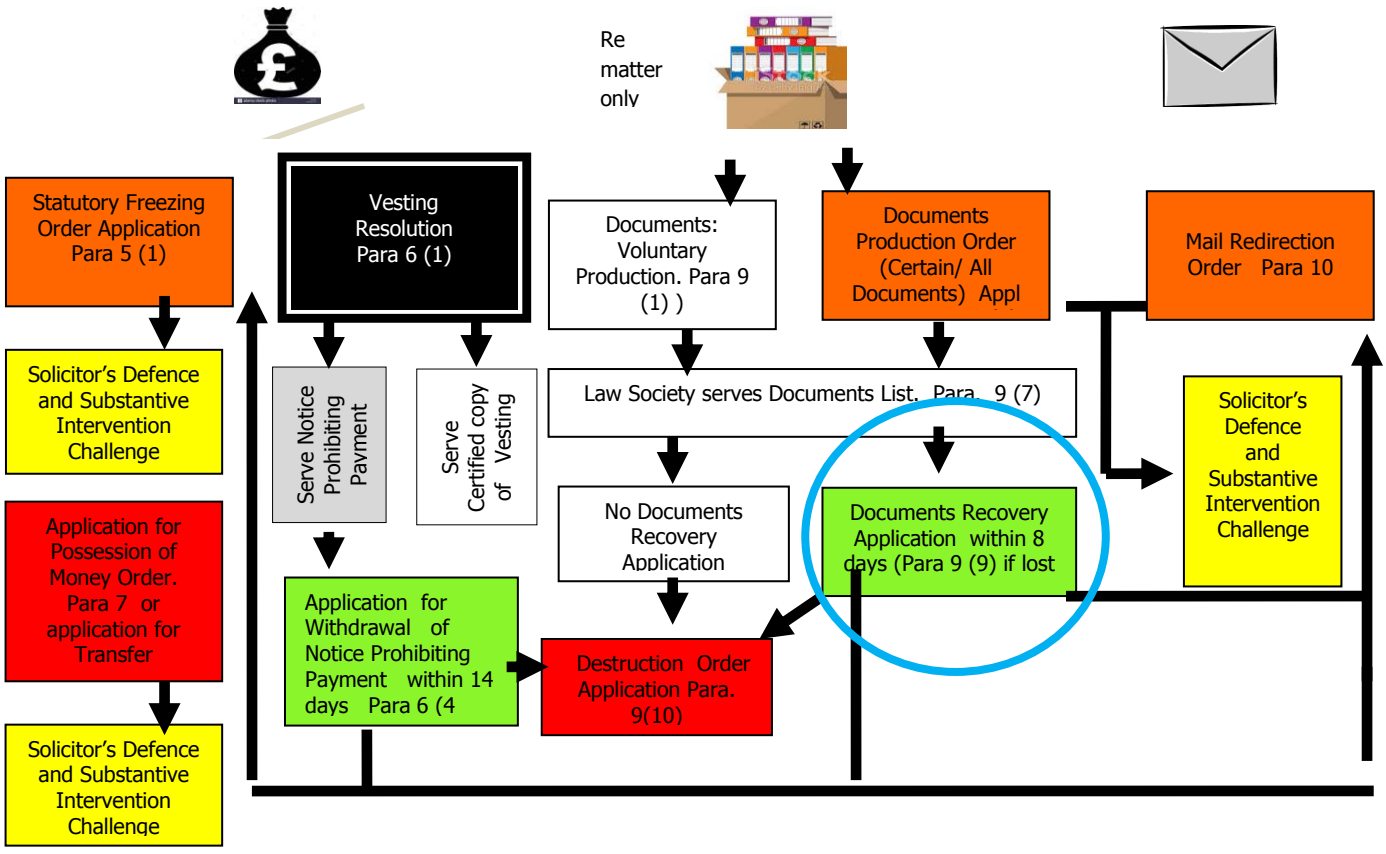


2) PARA 9(8) THE DOCUMENTS RECOVERY APPLICATION

Under the Law Society's Fraudulent Intervention Procedure, the Solicitor's challenge to the intervention is also made under the Para. 9(8) which provides as follows:

> (8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.
>
> (9) A notice under ...

The procedure is shown encircled blue in the Diagram below



v) SUMMARY

In conclusion,

1) Under the Lawful Intervention Procedure, interventions start with the Law Society's Substantive Applications, namely the Para 5 (1) the Statutory Freezing Order Application, the Para 9(4) Documents Production (Final) Order Application and the Para 10(1) Mail Redirection Order Application.

   Under the Law Society's Fraudulent Intervention Procedure, interventions start and finish with the Para 6 (1) Vesting Resolution, which is a Non Substantive and Administrative Procedure.

2) Under the Lawful Intervention Procedure, the Solicitor's Intervention challenge is made by way of a defence to the Law Society's Substantive Applications, namely the Para 5 (1) the Statutory Freezing Order Application, the Para 9(4) Documents Production (Final) Order Application and the Para 10(1) Mail Redirection Order Application.

   Under the Law Society's Fraudulent Intervention Procedure, the Solicitor's Intervention challenge is made by the Para 6(4) Withdrawal Application, and by the Para 7(8) Recovery of Documents Application, which are Non Substantive and Administrative Procedures and are the wrong procedures.

3) Within those wrong Non Substantive and Administrative Procedures made under the Law Society's Fraudulent Intervention Procedure , the wrong applications are made

   a) In the Para 6(4) Withdrawal Application, the application which should be made is an application for the withdrawal of the Para 6(3) Notice Prohibiting Payment Out.

      Instead, the application made is for the Withdrawal of the Vesting Resolution

   b) In the Para 9(8) Recovery of Documents Application, the application which should be made is an application for an order that Documents be delivered elsewhere

      Instead, the application made is for the Withdrawal of the Vesting Resolution

4) CASES IN WHICH THE JUDICIARY HAS DETERMINED THE WRONG APPLICATION WITH THE WRONG WORDING MADE UNDER THE WRONG PROCEDURE IN INTERVENTIONS WHICH HAVE NEVER TAKEN PLACE

i) ANAL SHEIKH V THE LAW SOCIETY [2005] (GREGORY TREVERTON JONES KC, HODGE MALEK KC, ANDREW PEEBLES KC, TIMOTHY DUTTON KC, HUGO PAGE KC. JONATHAN HARVIE KC, PHILIP ENGELMAN, RADCLIFFES)

ii) ANAL SHEIKH V THE LAW SOCIETY [2005] (CA AND HL) (GREGORY TREVERTON JONES KC, TIMOTHY DUTTON KC, RADCLIFFES HUGO PAGE KC. JONATHAN HARVIE KC, PHILIP ENGELMANM CHARLES BUCKLEY)

The Law Society's powers to intervene in a solicitor's practice

10. Section 35 of the Solicitors Act 1974 provides that the powers conferred by Part II of schedule 1 to that Act are exercisable in the circumstances specified in Part I of that schedule. Paragraph 1(1)(a) enables the powers to be exercised where "the Council have reason to suspect dishonesty on the part of – (i) a solicitor . . ." Paragraph 1(1)(c) enables the powers to be exercised where "the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 31, 32 or 37(2) [of the Act]". Those rules include the Solicitors Accounts Rules 1998, made under section 32 of the Act. In the latter case (but not in the former) the powers are not to be exercised unless the Society has given to the solicitor notice that it is satisfied that he has failed to comply with the Accounts Rules (specifying the rules in breach) and that the Part II powers have become exercisable. As I have said, that notice had been given on 23 December 2004. In taking its decision to intervene on 17 February 2005, the panel relied upon both paragraph 1(1)(a)(i) and paragraph 1(1)(c) of Part I, schedule 1.

11. Paragraph 6, in Part II of schedule 1 to the 1974 Act, is in these terms, so far as material:

"(1) . . . 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 . . . 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 applies -

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;

. . .

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 8 days of the service of a notice under subparagraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society . . . , may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

. . . "

12. Paragraph 9 provides for the production and delivery of documents:

"(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society –

(a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or any controlled trust;

(7) The Society, on taking possession of any document under this paragraph, shall serve upon the solicitor . . . a notice that possession has been taken on the date specified in the notice.

(8) Subject to subparagraph (9) a person upon whom a notice under subparagraph (7) is served, on giving not less than 48 hours' notice to the Society . . . may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under subparagraph (8) shall be given within 8 days of the service of the Society's notice under subparagraph (7)."

13. In a case where the powers to intervene become exercisable by virtue of paragraph 1 of schedule 1 to the Act, the exercise of powers under paragraphs 6(1) and 9(1) of the schedule has the effect of divesting the solicitor of control over practice monies (whether held on client account or on office account) and of the documents which he or she would need in order to carry on practice. The severity of those consequences is underlined by section 15(1A) of the Act, introduced by an amendment made in the Courts and Legal Services Act 1990. The section is in these terms, so far as material:

"Where the power conferred by paragraph 6(1) or 9(1) of Schedule 1 has been exercised in relation to a solicitor by virtue of paragraph 1(1)(a)(i) [reason to suspect dishonesty], [or] (c) (so far as it applies to rules made by virtue of section 32 [the Solicitors' Account Rules]) . . . of that Schedule, the exercise of that power shall operate immediately to suspend any practising certificate of that solicitor for the time being in force."

14. The consequences of intervention were described by Mr Justice Sedley, sitting in this Court in *Giles v Law Society* (1995) 8 Admin LR 105, 118C, as "undoubtedly drastic and potentially terminal" for a solicitor's practice. Lord Justice Ward (*ibid*, 116E) referred to intervention as a "Draconian remedy" capable of striking "a mortal blow to the particular practice". But there can be no doubt that Parliament was well aware of the consequences which the exercise of intervention powers would be likely to have for the individual solicitor, both when it enacted the 1974 Act and when it reinforced those consequences in 1990.

15. As I pointed out in *Sritharan v Law Society* [2005] EWCA Civ 476, [17] and [18]; [2005] 1 WLR 2708, 2714*A-D*, the origin of the power to intervene on reasonable suspicion is found in paragraph 4(1) of schedule I to the Solicitors Act 1941. It is clear that the power was thought to be a necessary adjunct to the requirement, imposed on the Law Society by section 2 of that Act, that a compensation fund be maintained and administered for the purpose of enabling the Society to compensate persons who had suffered loss by reason of the dishonesty of its members. I observed that it was important not to lose sight of that link:

". . . It is the power to intervene on suspicion of dishonesty which enables the society to exercise control over those solicitors whose conduct might give rise to claims

against the compensation fund; claims which, ultimately, have to be met by the profession as a whole."

In *Buckley v The Law Society (No 2)* [1984] 1WLR 1101, 1105-6, Sir Robert Megarry, Vice-Chancellor, explained that there was, in addition, a wider public interest:

". . . Statute has put The Law Society in a special position in relation to solicitors generally. The society has many important powers which are exercisable in the public interest. In many ways the society is the guardian not only of the profession but also of the public in its relation with solicitors. The powers of intervention conferred by Schedule 1 are plainly powers that are intended to enable the society to nip in the bud, so far as possible, cases of dishonesty by solicitors. The power to act on suspicion is a strong power, and there must often be a real element of risk in its exercise. But the decision of Parliament that the society is to have power to act on suspicion necessarily involves a decision that the society is to take whatever risks are involved in so acting; and those include risks both to the society and to the solicitors concerned."

iii) CHARLES BUCKLEY V THE LAW SOCIETY (1984)

I am personally aware of the procedure was followed in this unreported case.

iv) DOOLEY V THE LAW SOCIETY 2000 (UNREPORTED)

I believe the wrong procedure was followed in this unreported case.

v) HOLDER V THE LAW SOCIETY [2002] (HC) TIMOTHY DUTTON QC AND PHILIP ENGELMAN

HISTORICAL BACKGROUND TO RIGHTS OF INTERVENTION

42. As is set out in Mr Middleton's witness statement the statutory power of intervention can be traced back to the Solicitors Act 1941. The Act was passed following a number of high profile prosecutions against solicitors who were suspected of fraud. The public concern was well illustrated by questions asked in the House as set out in his witness statement, the Joint Committee report which led to the re-introduction of its proposals enshrined in the 1941 Act. The laudable intentions behind the provision were first, to prevent defalcations occurring at all by introducing a rigorous accounts procedure and, second, to provide as a means for making good so far as reasonably possible against all losses, and third, to deal with ancillary matters of a useful character.

43. Thus, under schedule 1 to the 1941 Act, the LS if it had reasonable grounds for believing a solicitor was guilty of dishonesty had the right to take possession of, amongst other things, books of accounts, records and other documents in the solicitor's possession or control.

44. The Solicitors (Amendment) Act 1956 section 9 took the powers further. The Council no longer had to have reasonable grounds for believing or being satisfied that the solicitor was guilty of dishonesty and increases were made to the level of the Compensation Fund.

45. The 1965 Act introduced further changes, principally enabling LS to recover costs from the solicitor incurred in any intervention.

46. Ultimately the Solicitors Act 1994 was passed, setting out the existing provisions which remain in force save for 2 aspects. First, under the Courts and Legal Services Act 1990 a provision was introduced whereby the Solicitors Practicing Certificate was automatically suspended where suspected dishonesty or breach of the accounts rules or the solicitor being committed to prison. Second, the Access to Justice Act 1991) added a further ground of intervention, where the solicitor failed to comply with the Solicitors Practice Rules.
47. Thus, in effect, the present power has been enshrined in supervisory legislation of solicitors since 1941.

48. The present provision are set out in schedule 1 SA 1974. As I have already observed the ground of intervention in this case was suspected dishonesty (paragraph 1(1)(a)).
49. The powers exercisable are summarised in paragraphs 5-16. Interestingly under paragraph 5, the High Court is given power to restrain payments being made out of any monies being made on behalf of the solicitor or his firm.

50. In this case the LS claim to exercise power under 6 (vesting of monies in LS) and 9 (the taking possession of all documents).

51. In both paragraphs the recipient of the notice is entitled to apply to court to have the notices set aside (paragraph 6 (4)) and 9(9)).

52. Such an application has to be made within 8 days of the service of the notice, on giving not less than 48 hours notice in writing.

53. Apart from the right of every person to apply ex-parte for an injunction restraining (in this case) the LS from acting, those time limits appear to be mandatory and not capable of extension by the court as they are enshrined in a statute.

54. The competing arguments between the parties are as follows. Mr Engelman contends for the Claimant that these powers are illusory and that there is no realistic prospect of any satisfactory intervention being challenged. He submits also that the intervention power when exercised is so draconian that it destroys a practice and thereby irretrievably, intervenes in a person's right to enjoy his property. Third he submits that the suggestion that the intervention is an interim measure is an illusion. Mr Dutton Q.C. for LS submits that there is no illusion. The powers are admittedly draconian but they are a necessary power to remedy misconduct and the Claimant has a right to go to court to challenge it. He further submits that in cases where there is a challenge, a modus operandi is regularly negotiated between LS and the solicitor whereby continuity is preserved in limited ways and even in some cases the lifting of the suspension of the Practicing Certificate can be arranged. Mr Dutton Q. C. does not submit that any of those ameliorating exercises would have been agreed to by the LS in this case, and I do not suppose for one minute that it would even if it had been asked.

OBSERVATIONS ON THE POWERS

55. It is clear that the purpose of the powers of intervention are to enable LS to nip in the bud so far as possible cases of dishonesty by a solicitor (*Buckley v The Law Society* (2) [1984] 3 All ER 317atpage317). There is no dispute that the power is draconian. The Court of Appeal in *Giles v The Law Society* (11-10-95) observed :-
1.
"Set against [the initial procedural unfairness] is the advantage necessary for the public protection that in some cases (and I emphasise not necessarily by any means this one) the Law Society may need to preserve the confidentiality of their informant and may need legitimately to keep their powder dry in the crucial hours and days of taking over the practice of the dishonest, unscrupulous solicitor, in order that proper enquiries may not be frustrated by him"
56. That case involved an appeal by a solicitor against the dismissal of originating summons he issued in the Chancery Division seeking an order directing the ILS to withdraw the intervention. The decision was made before the passage of the HRA. I have no doubt that before the HPLA the Claimant's application in this case would on the evidence have been doomed to failure. In the Giles case the appellant was challenging the decision making process. It need hardly be said that if there was no

challenge to the decision making process (i.e. its evidence) before BRA there would have been no basis for challenging the Law Society decision to intervene.
57. It is accepted that there is no power of judicial review that will provide any effective remedy. It is equally accepted by Mr Dutton Q.C. that in the event that an intervention is set aside there is no cause of action for damages nor any right to compensation see *Ian Miller v The Law Society* a decision of Mr Geoffrey Voss Q.C. sitting as a deputy judge in the Chancery Division Tuesday, May 14th 2002.
58. Equally Mr Dutton Q.C. acknowledged that the exercise was "calculated to destroy the solicitor's practice". That is an observation form Mr Justice Lightman in *Dooley v The Law Society* 23rd November 2001. When I pressed him on that Mr Dutton Q.C. submitted that the words should not be taken literally, especially the word calculated. Be submitted that the effect would be to destroy a solicitor's practice. Mr Justice Lightman in his judgment said the power was essential in the public interest to protect the clients, the public, the reputation of the profession and the Solicitors Compensation Fund. It is that statement, effectively, that it is "essential", that Mr Engelman challenges.
59, In Giles Ward LJ also said this (page 1.8):-

1.
"Intervention is of course, a draconian remedy, not only because it often strikes a mortal blow to the particular practice, but also, because by an amendment made by the Courts and Legal Services Act 1990, the solicitor loses his Practicing Certificate immediately. Protection of the public therefore has to be held in balance against hardship[to that solicitor. That balance is primarily held by Parliament."
The learned judge then sets out the procedural balancing exercise.

60. Thus the statutory procedure involves an investigation (sometimes secret perhaps) a conclusion of the HU Unit and a recommendation to the LS and in the case of emergency, the decision to intervene made by the Chairman in his delegated powers. None of that is known to the Solicitor. I agree with Ward LJ that there might be good reason for that and I see nothing wrong with that as a procedure, which would be appropriate and necessary in some cases. Equally, it seems to me there may well be urgent cases where the need to act immediately militates against going to court. It seems to me that that is likely to be in very rare cases indeed where the LS discovers (for example) a fraud in progress. 'The procedures do not admit of that kind of sudden activity so far as I can see. Going and investigating the accounts is likely to alert fraudsters. One also has to bear in mind that nowadays, urgent applications can be made to court far more readily than they were in the past. The concept of telephone applications and immediate injunctions was unheard of in 1941. The world moved somewhat more slowly in those days. The LS has demonstrated in cases (see above) that there are times when it feels appropriate to seek relief as an aid to its intervention powers.

61. Elsewhere in his judgment Ward LJ said this (page 20): -

1.
"Reduced to its essentials the unfairness and injustice contended for by Mr McCulloch boils down to this. First, if the solicitor is given no particulars of the facts and matters which give the Law Society a reason to suspect dishonesty or to identify whomsoever falls under suspicion, then prejudice is suffered in the inability or the difficulty facing the solicitor in making an informed choice whether or not to exercise his right to apply to the High Court. Secondly, he may incur costs in launching those proceedings which, once the facts are revealed to him, he would acknowledge to be hopeless. .1 have difficulty in accepting that those disadvantages are enormous. An honest solicitor would have no difficulty in deciding that his honour and livelihood should not be snuffed out without a fight I cannot accept that extravagant cost is involved in issuing the original application, filing, if necessary, his first affidavit expressing his bewilderment and compelling the particulars then to be supplied. The Rules of the Supreme Court operate to cure any initial procedural unfairness. Set against that is the advantage necessary for the public protection that in some cases (and, I emphasise, not necessarily by any means this one) .... . Wider considerations of this kind outweigh the temporary difficulties which the solicitor faces before they are cured by the due process of Order 28 of the Rules of the Supreme Court. "
62. Sedley LJ said this (page 22):-

1.

"The manifest purpose [of the intervention power].. is to create an ex-parte procedure leading where appropriate to intervention, the consequence of which are undoubtedly drastic and potentially terminal for a solicitor's practice. Where an intervention is persisted with, paragraph 6(4) .... provides for a solicitor to be heard on an application made within 8 days to the court for an order directing the Law Society to withdraw the notice prohibiting payment out of money held by solicitors save with the leave of the court Since this is the key intervention power, at least in cases 09f suspected dishonesty, it is realistic to describe the sub-paragraph as conferring jurisdiction upon the court to direct the Law Society to withdraw from the intervention. On such an application it is for the court to decide whether or not to direct withdrawal on the then material before it. If it is demonstrated to the court that a notice given underpart 2 is fundamentally flawed (for example because it is based on all ultra vires resolution) it may well be directed to withdraw should be made exdebito justitiae leaving the Law Society to decide whether in the light of what it then knows to pass 47 fresh resolution to intervene .... ..
63. Now on the facts of the case of *Giles* I can see no difficulty. I cannot see that it can be said that a potentially dishonest solicitor should be given notice of a proposed intervention for self-evident reasons. That is the reasoning of the Court of Appeal in Giles in reality.
64. Where I am left with a sense of unease however, is the procedural aspects (or more accurately the non-procedural aspects) weighed with the consequences of the intervention. It is quite clear that an intervention in most cases will destroy the practice. Indeed as Lightman J observed above that is its purpose in this context, namely to stop a solicitor from practising forever more, unless the notice is withdrawn.

65. What is the supposed justification for that drastic action. It is said to be necessary to protect the public from dishonest solicitors. That is self-evidently a laudable exercise, but should it be such that it can only happen in such a draconian manner. Is there some other way of procedure which might afford fairness, whilst still protecting the LS, the SCF and the clients from dishonesty? Further, the procedure involves the LS investigating, "prosecuting" and "adjudicating" in private.

66. It seems to me that a useful analogy can be drawn from the way in which the court has developed the regulation of freezing and search orders. The jurisprudence in the development of those cases has come a long way since their early inception. The courts initially especially in search orders made it very difficult as a matter of practicality for parties to get back to court to challenge or even vary the orders. Equally supervision of the orders was something which required further development. These were substantially reviewed in the landmark decision of *Universal Themro Sensors Ltd v Hidden* 1992 1 WLR 840. This has now lead to well-defined statutory forms of order which have in them checks and balances designed to enable a claimant properly to obtain protective relief while still preserving rights on the part of the defendant (for example) to spend his own money to defend himself, to conduct his business in the ordinary way and the like.
67. Similarly in the case of partnership disputes and in the case of the insolvency of companies, remedies such as the appointment of provisional liquidators or receivers and managers are often made by the courts for a number of reasons. Those reasons involve the appointment of an independent third party to preserve and realise, if necessary, the assets the subject matter of the dispute with a view to minimising the losses and enabling the dispute to be resolved at minimum consequential cost.

68. The effect of an intervention is admittedly draconian. It seems to me that the effect of the intervention would, in reality, render it at the very least, difficult, if not impossible, for a solicitor to collect outstanding fees and, more importantly, work in progress. In respect of the latter there are undoubtedly cases where solicitors work on an entire fee basis. Conveyancing transactions, for example, are regularly carried out on such a basis. Commercial or business transactions are similarly carried out on the basis of a fee quoted for doing a particular job. The result of an intervention will prevent the solicitor from carrying on the contract. It means that the solicitor will have discharged himself with the result that the solicitor will no longer be able to carry out the duties. He will thus lose his entitlement to a fee and, according to well known principles of entire contracts, would not be able to claim a quantum meruit.

69. As a matter of practicality it seems to me that the Claimant's evidence as to the difficulties of collection are made out. Whilst Mr Dutton Q.C. said the LS will afford documents, or rather copies of documents, to enable collections to be made, I can well foresee (and this has been my experience in the interventions where I have been involved) that the destruction of the practice causes the clients to be scattered to the winds and the recoverability of monies made virtually impossible.

70. Is that necessary? In some cases it may be necessary because it might be a necessary evil to correct a much greater one. The more interesting question is, is it always necessary? In that case I am not convinced that it can be said that an intervention in the way in which the procedure is currently permitted to be exercised, is always necessary. It follows from that analysis that if the procedure was not necessary in that way, and it resulted in the interference in the right to possession of property, the procedure itself will infringe the Claimant's human rights. I do not see that it can be said that there is no other alternative. If a report for example, is prepared along the lines of the present case there would have been no difficulty in making an appointment at short notice to go to court for an order for an intervention or some lesser order if the court thought that appropriate. There would then be an independent review and the court (like a search order or a freezing order) would act on the evidence. If the evidence was made out, there would be an independent review of the procedure. Intervention in a full blown way might be required on occasions. Alternatively the court might feel a lesser intervention (such as a receiver, a manager) would be appropriate. Mr Dutton Q.C. suggested that receivership would be unlikely to be an attractive proposition to the LS. I was unpersuaded by his arguments. First, in a court appointed receiver nowadays it is normal for the receiver himself to be a licensed insolvency practitioner (there are solicitors who do this) who also provides his own security. Normally an applicant only provides security on an undertaking damages pending the provision of such security. That is something which can be pre-addressed so that the proposed receiver is in a position to provide his own security and the court appoints him on the basis of that security immediately. Nor do I accept that it would not be possible to appoint a receiver to run a solicitor's practice. I have never heard such a submission ever being made before. If it was a tenable submission, several important receivership cases in partnership disputes where solicitors were the partners would have been decided differently, see, for example, *Sobell v Boston* 1975 1 WLR 158 7

71. There are considerable advantages in my view to this process vis-a-vis LS, the SCF and the clients. First, client continuity would not be affected in the same way. Second, the receiver would be able to carry on the practice and attempt to deal with the client's cases. I accept there may be instances where that might not be possible, but an independent receiver would be able to make a rapid assessment as occurs in many other cases of receivership and/or liquidation. Mr Dutton Q.C. suggested that the receivers would be require indemnity form the LS. I am not persuaded as to that. Receivers and managers in the case of insolvency regularly fail to obtain indemnities from their appointers but look usually only to the assets. But even if he is right, that would be deployed by the LS as an argument before the judge to justify an intervention as opposed to a receivership.

72. Third, a receiver would be in a position to take immediate steps to preserve goodwill and work in progress for the general benefit of the creditors, the LS, the SCF and possibly the Claimant. I do not see any disadvantages in that process save in an exceptional case where the LS feels immediate action is necessary. It seems to me that if a system can operate which has the same, or even better benefits, but has the possibility of preserving property, which would otherwise be destroyed or lost, that leads to two conclusions. First, that is a fairer system. Second, that the present system is not only unfair but is an infringement of the Claimant's human rights.

73. The human rights law has direct effect and the courts must apply it. After the hearing Mr Engelman supplied me with a case of *Eckle v Federal Republic of Germany* 5 EHRR 1 which is an authority in which the Applicant does not have to establish disadvantage to avail himself of the protection of the ECHR (paragraph 66). Even if that were not the case, there is clearly disadvantage arguably established on the Claimant's evidence.

74. After the hearing Mr Dutton Q. C. helpfully provided me with two further notes arising out of regulatory powers in other regimes. Banks were regulated by the Banking Act 1987, until the Financial Services and Markets Act 2000 came into

force. The Bank of England was the regulatory authority until the 17SMA 2000 came into force. The primary obligation on the part of the Bank is to give notice save in the case of exceptions under section 14. Whilst there is no obligation to obtain a court order, there is a tribunal procedure. 1. do not see that this assists me as it seems to me that the regulatory powers of banks, even more so than solicitors, must have an element of secret review because of the consequences to the economy as a whole.
75. Licensed conveyancers are subject to similar requirements to solicitors under the Administration of Justice Act 1985.
76. Insurance companies are covered by the Insurance Companies Act 1982, where there are powers effectively given by direction of the Secretary of State and the Financial Services Authority is given similar extensive regulatory own initiative powers, but it appears that it has to give notice before it intends to do it.
77. There is no clear pattern, in my view, coming out of these procedures. Some of them are pre-HRA. I accept the FSA 2000 is post-HRA but it has not been tested in the courts.

78. It seems to me that, as I have said earlier in this judgment, there is a justification for the intervention power. Equally there is a justification for the exercise of that intervention power in the way it presently operates in appropriate cases. It seems to me however, that it can not be said that the intervention power and the manner of intervention is necessary in every case even when intervention of some sort was justified. It does not matter that the Claimant has been dishonest and an intervention is justified. I fully accept Mr Dutton Q.C's repeated observations as to the dishonesty of the Claimant and his lack of merit on the facts. However, that is not sufficient. A wrongdoer does not forfeit all his rights unless it is necessary in the general interest of them so to do. What is it about this case that justifies the arguable destruction of the Claimant's property? I am not in a position to come to any conclusion at this stage because I am at a part 24 stage of the action. It does seem to me, however, that the appeal should be allowed, because whilst I do not accept either Mr Engelman's sweeping submission that the intervention power of itself infringes the HRA, nor do I accept the equally swinging (but in the opposite way) submission of Mr Dutton Q.C. that it can never be an infringement of a person's rights.

79. There may be instances when it will be, and other instances where it mill not. On the evidence before me at the moment I cannot conclude that there is no real prospect of the Claimant establishing that his human rights have been infringed. I say that because it seems to me that the procedure in the present case was not necessarily the only way, to address the problem. I do not see why a receivership could not have been contemplated as an adjunct to the intervention powers in advance of the intervention or in tandem with the intervention.

80. For those reasons it seems to me that the appeal should be allowed and direction made to proceed the action to trial.

vi) HOLDER V THE LAW SOCIETY [2002] (CA) TIMOTHY DUTTON QC, NICHOLAS PEACOCK , PHILIP ENGELMAN AND ROGER PEZZANI

The statute

9. The Society's powers of intervention are set out in Schedule 1 to the Solicitors Act 1974. The relevant grounds in this case were reason to suspect dishonesty on the part of a solicitor (para 1(1)(a)) and failure to comply with the accounts rules (para 1(1)(c). Paragraph 6(1) confers the power, by resolution, to provide for the vesting in the Society of money held by the solicitor "in connection with his practice". Such money is, on the making of the resolution, held by the Society "upon trust for the persons beneficially entitled".

10. The Society is required to serve on the solicitor, and "any other person having possession of" money to which the resolution applies, a certified copy of the resolution, and "a notice prohibiting the payment out of any such sums of money"

(para 6(3)). It appears from the evidence of Mr Middleton (unsurprisingly), that the notice on the solicitor is normally served after notice has been served on his bank, thereby effectively freezing his accounts. However, there appears to be no specific evidence that this happened in the present case.

11. Paragraph 6(4) provides that the person served with a notice may within 8 days of service, on not less than 48 hours' notice, "apply to the High Court for an order directing the Society to withdraw the notice". If the Court makes such an order, it has power "also to make such other order with respect to the matter as it may think fit." (para 6 (5)).

12. By paragraph 9 the Society may give notice requiring the production or delivery of documents held by the solicitor in connection with his practice. Again there is provision for the solicitor to apply to the Court for re-delivery of the documents (para 9(8)(9)).

13. Where intervention powers have been exercised on the grounds of suspected dishonesty or breach of accounting rules the exercise of the power operates immediately to suspend any practising certificate of the solicitor for the time being in force (1974 Act s 15(1)(a)). The solicitor may before the certificate expires apply to the Society to terminate the suspension, and if the Society refuses he may appeal to the Master of the Rolls. (s16)

14. The nature and characteristics of the intervention jurisdiction have been discussed in a number of cases, starting with *Buckley v Law Society (No.2)* [1984] 3 All ER 313 (Sir Robert Megarry V-C), and most recently in this Court, in *Giles v Law Society* [1995] 8 Admin LR 105. It has been recognised that it is a "draconian" jurisdiction, necessary to protect the public interest, but balanced by the right to apply to the Court. As Sedley LJ said in *Giles*:

    "The manifest purpose of sch 1 to the Solicitors Act 1974… is to create an ex-parte procedure leading where appropriate to intervention, the consequences of which are undoubtedly drastic and potentially terminal for a solicitor's practice. Where an intervention is persisted with, paragraph 6(4) of sch 1 provides for a solicitor to be heard on an application made within 8 days to the court for an order directing the Law Society to withdraw the notice prohibiting payment out of money held by solicitors save with the leave of the court. Since this is the key intervention power, at least in cases of suspected dishonesty, it is realistic to describe the sub-paragraph as conferring jurisdiction upon the court to direct the Law Society to withdraw from the intervention. On such an application it is for the court to decide whether or not to direct withdrawal on the then material before it….

    … it is by common consent a matter for the court's judgment (I prefer not to use the word discretion in this context) whether it should direct withdrawal – a judgment which may be significantly, though not conclusively, affected by the Law Society's own view of the facts, since on the view taken by the professional body charged with the regulation of solicitors' practices is itself a relevant evidential factor to which the judge not only can but must have regard."

15. The Court itself conducts "a two-stage process". Its role was summarised by Neuberger J (*Dooley v Law Society* 15.9.2000):

    "First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily, whether there are grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues."

16. Finally, it should not be thought that the protracted progress of the present proceedings is in any way typical. Where necessary the procedure can operate very quickly. By way of illustration, we were referred to one case (*Wilson Smith v Law Society*, 29th March 1999) where the Judge gave a temporary injunction by telephone on the day before the proposed intervention to enable the matter to be considered in Court the following morning. In another recent case to which I shall return (*Wright v Law Society*, 4th September 2002), an interim injunction was granted to preserve the position pending the full hearing a few days later. The Judge recorded the speed with which all the parties had worked, including the submission of skeleton arguments by e-mail over the weekend.

The Human Rights issue

17. Before the Judge it was submitted by Mr Engelman (appearing then as now for Mr Holder) that the intervention power, either generally or as applied in this case, infringed Mr Holder's right to "peaceful enjoyment of his possessions" under Article 1 of the First Protocol to the European Convention on Human Rights, as applied by the Human Rights Act 1998, and that in addition there had been a breach of the claimant's right to a fair hearing under Article 6. As to the latter, the Judge, who as I said did not have a note of the Master's judgment, considered that there had not been a fair hearing on that occasion, but he considered that the right of appeal to him was sufficient to cure any such defect.

18. As to Article 1, the Judge rejected Mr Engelman's broad submission that "under no circumstances" could the power of intervention be justified, because of its effect in destroying the practice of the solicitor. The Judge said:

"38. For reasons which I will give in this judgment I do not accept Mr Engelman's submission as widely based as it is. It seems to me that balancing the rights of the individual against the rights of the public and the State interest in seeing that the conduct of solicitors is maintained to the highest professional standards of integrity, the power of intervention is a necessary power and the power ***of itself*** is not contrary to HRA. However, I do accept an alternative submission that the power can in some cases infringe the right to possession but it is essentially a question of fact and degree in each case.

Later in his judgment he expanded on what he saw as the "draconian" features of the intervention power:

"68. The effect of an intervention is admittedly draconian. It seems to me that the effect of the intervention would, in reality, render it at the very least, difficult, if not impossible, for a solicitor to collect outstanding fees and, more importantly, work in progress. In respect of the latter there are undoubtedly cases where solicitors work on an entire fee basis. Conveyancing transactions, for example, are regularly carried out on such a basis. Commercial or business transactions are similarly carried out on the basis of a fee quoted for doing a particular job. The result of an intervention will prevent the solicitor from carrying on the contract. It means that the solicitor will have discharged himself with the result that the solicitor will no longer be able to carry out the duties. He will thus lose his entitlement to a fee and, according to well known principles of entire contracts, would not be able to claim a quantum meruit.

69. As a matter of practicality it seems to me that the Claimant's evidence as to the difficulties of collection are made out. Whilst Mr Dutton Q.C. said the LS will afford documents, or rather copies of documents, to enable collections to be made, I can well foresee (and this has been my experience in the interventions where I have been involved) that the destruction of the practice causes the clients to be scattered to the winds and the recoverability of monies made virtually impossible."

19. He then considered whether such effects could be justified under Article 1. He said:

"70. Is that necessary? In some cases it may be necessary because it might be a necessary evil to correct a much greater one. The more interesting question is, is it ***always*** necessary? In that case I am not convinced that it can be said that an intervention in the way in which the procedure is currently permitted to be exercised, is always necessary. It follows from that analysis that if the procedure was not necessary in that way, and it resulted in the interference in the right to possession of property, the procedure itself will infringe the Claimant's human rights. I do not see that it can be said that there is no other alternative. If a report for example, is prepared along the lines of the present case there would have been no difficulty in making an appointment at short notice to go to court for an order for an intervention or some lesser order if the court thought that appropriate. There would then be an independent review and the court (like a search order or a freezing order) would act on the evidence. If the evidence was made out, there would be an independent review of the procedure. Intervention in a full blown way might be required on occasions. Alternatively the court might feel a lesser intervention (such as a receiver, a manager) would be appropriate…"

20. He thought the appointment of a Receiver would have considerable advantages over the intervention procedure:

"71. There are considerable advantages in my view to this process vis-a-vis LS, the SCF and the clients. First, client continuity would not be affected in the same way. Second, the receiver would be able to carry on the practice and attempt to deal with the client's cases. I accept there may be instances where that might not be possible, but an independent receiver would be able to make a rapid assessment as occurs in many other cases of receivership and/or liquidation. Mr Dutton Q.C. suggested that the receivers would be require indemnity form the LS. I am not persuaded as to that. Receivers and managers in the case of insolvency regularly fail to obtain indemnities from their appointers but look usually only to the assets. But even if he is right, that would be deployed by the LS as an argument before the judge to justify an intervention as opposed to a receivership.

72. Third, a receiver would be in a position to take immediate steps to preserve goodwill and work in progress for the general benefit of the creditors, the LS, the SCF and possibly the Claimant. I do not see any disadvantages in that process save in an exceptional case where the LS feels immediate action is necessary. It seems to me that if a system can operate which has the same, or even better benefits, but has the possibility of preserving property, which would otherwise be destroyed or lost, that leads to two conclusions. First, that is a fairer system. Second, that the present system is not only unfair but is an infringement of the Claimant's human rights."

Accordingly he concluded:

79. …On the evidence before me at the moment I cannot conclude that there is no real prospect of the Claimant establishing that his human rights have been infringed. I say that because it seems to me that the procedure in the present case was not necessarily the only way to address the problem. I do not see why a receivership could not have been contemplated as an adjunct to the intervention powers in advance of the intervention or in tandem with the intervention."

21. The Law Society has been understandably concerned at the implications of the judgment of Peter Smith J for the exercise of its intervention powers. It intervenes in approximately 100 solicitors' practices per year, of which a substantial proportion are cases of suspected dishonesty. Furthermore, it does not consider that the alternative procedure proposed by the judge is in fact available in law, even if otherwise desirable (which it disputes).

22. More recently, Judge Behrens in *Wright v Law Society* (see above) declined to follow the reasoning of Peter Smith J. He said:

"The Law Society has to take into account the public interest in deciding whether to exercise its powers of intervention at all. The public interest requires a balance to be struck between the draconian effect of intervention and the matters referred to earlier in this judgment. Second I have considerable doubts about the jurisdiction of the Court to adopt the sort of solution envisaged by Peter Smith J in paragraphs 70 and 71 of his judgment. Intervention in its full form is the statutory remedy entrusted by Parliament to The Law Society in order to regulate the profession. It is not, in view, open to the courts to devise a different and less draconian remedy. I cannot, for my part, see that the Court would have power to appoint a Receiver in an application by The Law Society to determine whether there ought to be an intervention or not.

Neither counsel were able to point me to any express power in any statute authorising the appointment of a Receiver or the more limited intervention referred to in Peter Smith J's judgment. It seems to me that if such a power is to exist it should be provided for by Parliament."

vii) HOLDER V THE LAW SOCIETY [2003] (SC) TIMOTHY DUTTON QC, NICHOLAS PEACOCK , PHILIP ENGELMAN AND ROGER PEZZANI

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Later in his judgment he expanded on what he saw as the "draconian" features of the intervention power:

"68. The effect of an intervention is admittedly draconian. It seems to me that the effect of the intervention would, in reality, render it at the very least, difficult, if not impossible, for a solicitor to collect outstanding fees and, more importantly, work in progress. In respect of the latter there are undoubtedly cases where solicitors work on an entire fee basis. Conveyancing transactions, for example, are regularly carried out on such a basis. Commercial or business transactions are similarly carried out on the basis of a fee quoted for doing a particular job. The result of an intervention will prevent the solicitor from carrying on the contract. It means that the solicitor will have discharged himself with the result that the solicitor will no longer be able to carry out the duties. He will thus lose his entitlement to a fee and, according to well known principles of entire contracts, would not be able to claim a quantum meruit.

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21. The Law Society has been understandably concerned at the implications of the judgment of Peter Smith J for the exercise of its intervention powers. It intervenes in approximately 100 solicitors' practices per year, of which a substantial proportion are cases of suspected dishonesty. Furthermore, it does not consider that the alternative procedure proposed by the judge is in fact available in law, even if otherwise desirable (which it disputes).

22. More recently, Judge Behrens in *Wright v Law Society* (see above) declined to follow the reasoning of Peter Smith J. He said:

"The Law Society has to take into account the public interest in deciding whether to exercise its powers of intervention at all. The public interest requires a balance to be struck between the draconian effect of intervention and the matters referred to earlier in this judgment. Second I have considerable doubts about the jurisdiction of the Court to adopt the sort of solution envisaged by Peter Smith J in paragraphs 70 and 71 of his judgment. Intervention in its full form is the statutory remedy entrusted by Parliament to The Law Society in order to regulate the profession. It is not, in view, open to the courts to devise a different and less draconian remedy. I cannot, for my part, see that the Court would have power to appoint a Receiver in an application by The Law Society to determine whether there ought to be an intervention or not.

Neither counsel were able to point me to any express power in any statute authorising the appointment of a Receiver or the more limited intervention referred to in Peter Smith J's judgment. It seems to me that if such a power is to exist it should be provided for by Parliament."

The issues in this Court

23. Mr Dutton QC, for the Law Society, submits that the judge was wrong to find that the intervention procedure raised any issue under the Human Rights Act, and in particular that he was wrong to think that there was an alternative procedure. Mr Engelman, on the other hand, repeats his submission that the intervention procedure itself offends Article 1, and he supports the judge's finding of the possibility of a breach on the facts of this case.

24. Mr Engelman also makes a submission on Article 6, which I can deal with briefly. He refers to Mr Holder's evidence of the difficulties he had, in June 2001, in obtaining legal assistance, once his accounts had been in effect frozen. Relying on the decision of the European Court of Human Rights in *Airey v Ireland* [1979] 2 EHRR 305, Mr Engelman submits that his client's lack of means to employ a lawyer meant that his right of access to a court was effectively denied. However, a similar argument was

rejected by this Court in the same legal context in *Pine v Law Society* [2001] EWCA Civ 1574 (15th October 2001). The Vice-Chancellor, referred to *Airey*, and to its interpretation by the Commission in *X v United Kingdom* (1984) 6 EHRR 136. He noted that the principle distilled by the Commission from the decision of the Court in *Airey* was that:

"… only in exceptional circumstances, namely where the withholding of legal aid would make the assertion of a civil claim practically impossible, or where it would lead to obvious unfairness of the proceedings can such a right be invoked by virtue of Article 6(1) of the Convention."

25. It had been contended for Mr Pine that:

"the possible consequences were so serious for the solicitor that disciplinary proceedings should be placed towards the criminal end of the spectrum of civil proceedings in deciding what is and is not fair … (and) that it was obviously unfair to take and pursue disciplinary proceedings with such immediate and future consequences for the livelihood of a solicitor, particularly where his lack of means stems from the Law Society's own acts in connection with those proceedings, unless at the same time provision is made for the impecunious solicitor to receive legal advice and representation if he wanted it at no expense to himself."

26. The Vice-Chancellor rejected this submission:

"I do not accept this submission. It is clear from the passage I have quoted from *Airey* in paragraph 9 above that, at least in proceedings in which a party may appear in person, the requirements of Article 6 with respect to legal advice and representation depend on the facts of any given case."

Having reviewed the facts of the case he said:

"The procedure was not complex. The relevant facts were within the knowledge of Mr Pine. Mr Pine was a solicitor experienced in commercial litigation. Mr Pine had ample opportunity to indicate any defences he might wish to advance. In my judgment neither the seriousness of the likely consequences nor the emotional involvement of Mr Pine, which is not apparent from his letters to have been a debilitating factor anyway, when considered in the light of the absence of legal advice or representation, gave rise to any unfairness."

27. I see no reason to take a different view in this case. Mr Holder was a solicitor who specialised in litigation. He had been closely involved in the investigation, and had fairly admitted most of the relevant facts. There was nothing particularly complex about the issues, and there is no evidence that he would have had any difficulty in understanding them, or presenting his case to the court.

Article 1

28. Article 1 of the First Protocol to the European Convention on Human Rights is in these terms:

'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.'

Mr Dutton did not dispute that the intervention involved an interference with Mr Holder's peaceful enjoyment of his possessions; but he of course relied on the public interest justification, which is also emphasised by the English cases on the interpretation of the Solicitors Act.

29. Mr Engelman referred to the principles laid down by the Strasbourg Court for the application of the public interest test:

"… the Court must determine whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights." (*Sporrong and Lonnroth v Sweden* (1983) 5 EHRR 35, para 69)

"There must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised by any measure depriving a person of his possessions." (*Holy Monasteries v Greece* [1994] EHRR 1 para 4)

He submitted that if, as the judge found, the more draconian features of the intervention procedure were not "necessary", the requirement of "proportionality" was not satisfied.

30. With respect to the submission, and to the judge, this approach ignores the "all important" factor, when considering issues of proportionality, of the "margin of appreciation or discretion" or "area of judgment" allowed to the legislator and the decision-maker (see, for example, *R (Farrakhan) v Secretary of State* [2002] 4 All ER 289, 309; and the review of the principles in *International Transport Roth Gmbh v Home Secretary* [2002] 3 WLR 344 [2002] EWCA Civ 158). This aspect was not mentioned by the judge, although it was referred to in Mr Engelman's written submissions to him. In paragraph 70 (quoted above) he appears to have approached the matter on the basis that it was for the court to determine what was "necessary" in the public interest, and in doing so to compare other possible procedures devised by the court. In my view, this was fundamentally wrong.

31. In the present case, the "margin" arises at two stages: first, the discretion allowed to the legislature in establishing the statutory regime, and, secondly, the discretion of the Law Society as the body entrusted with the decision in an individual case. (In the former case, the only remedy for exceeding the "margin" may be a "declaration of incompatibility" under the 1998 Act.) The intervention procedure, now contained in the Solicitors Act 1974, is long-established (dating back to 1941, in its earliest form), and has been reviewed by the court on many occasions. As appears from the cases to which I have referred, it has been recognised as "draconian" in some respects, but necessary for the protection of the public interest; and the courts have repeatedly emphasised the "balancing exercise" which it involves. I see no material difference between this and the "fair balance" which Article 1 requires. Nor do I see any reason why the Human Rights Act 1998 should be thought to have changed anything. There has long been a right of individual petition to the Strasbourg Court for breaches of the Convention, but we have not been referred to any questioning of the intervention procedure under Article 1. I see no arguable grounds for thinking that the margin allowed to the legislature has been crossed, particularly having regard to the deference which is properly paid to an Act of Parliament, as compared to an administrative decision (see the *Roth* case, above, at paras 26, 83).

32. Having reached that point, the Law Society's actions must be judged by reference to the procedure laid down by Parliament, not to some hypothetical alternative procedure. This makes it unnecessary to rule on Mr Dutton's submission that the alternative procedure suggested by the judge, involving an application to the court for a receiver, was not in fact available to the Society. He referred to *Parker v Camden LBC* [1986] Ch 162, where this court held that the wide power to appoint a receiver and manager, under Supreme Court Act 1981, s 37, could not properly be used to supplant the management powers given by Parliament to the housing authority. We do not need to decide whether that case provides guidance as to the availability of that power to support the very different functions of the Law Society. In any event, if the intervention procedure on its own had been found to be non-

compliant, it might be necessary, to avoid incompatibility, to "read in" such a power (applying the beneficial interpretation required under the Human Rights Act 1998, s 3).

33. The Law Society also has a "margin of discretion", but the court has a separate duty to consider the merits of the case, in accordance with the principles I have discussed, while paying due regard, as Sedley LJ said (see *Giles* above), to the views of the Law Society, as the relevant professional body. As I have said, this meets any "fair balance" requirement. The judge found that, viewed by reference to the Solicitors Act itself, the Society's intervention was "entirely justified". I agree. In my view, that should have led him to have upheld the Society's view as to where the balance lay on the facts of this case.

34. As I have noted, the judge mentioned the perceived problem of collecting outstanding fees, particularly in relation to work in progress on contracts on "an entire fee basis", and the difficulties of access to documents. Mr Engelman does not claim that Mr Holder in fact had work in progress of this kind, and there is evidence that the Society has been willing to permit supervised access to the documents when required. In my view these are not factors which could possibly affect the overall judgment.

35. Finally, I should comment on the passage in which the judge suggested that there was no "immediate" urgency, and his reliance on the fact that the Society had been "content" that the notice should be sent by post. The evidence of Mr Middleton, the officer responsible, was as follows:

    "Of particular relevance in this context is the substantial amount of money owed to fringe money-lenders, the fact that he is in sole charge of his client account and that substantial sums had already taken from that client account together with his admissions. There was an obvious risk that should further monies be available to Mr Holder in his client account prior to the intervention he might have sought to remove those monies prior to the intervention taking place."

    This was in my view an entirely reasonable assessment. I do not think the judge was justified in reading anything into the fact that notice was served by post to arrive on the Monday, particularly since it was the resolution which led to money vesting in the Law Society; and it would be the notice to the bank (not to the solicitor) which would normally be the most critical step in preventing dissipation.

36. For these reasons, I would allow the appeal and restore the order of the Master.

viii) LAW SOCIETY V BALDWIN [2004]

[17] There is no dispute between the parties as to the proper approach to an application of this sort. Under Pt 1 of Sch 1 to the Solicitors Act 1974, the powers conferred by Pt 2 of that schedule – effectively the intervention powers as they are commonly called – may be exercised in various circumstances. One of those circumstances is set out at para 1(1)l. It is where:

"The Council are satisfied that a solicitor has failed to comply with any condition, subject to which his practising certificate was granted or otherwise has effect, to the effect that he may act as a solicitor only (i) in employment which is approved by the Society in connection with the imposition of that condition; (ii) as a member of a partnership which is approved . . ."

Then it goes on in ways that I need not recite. It is common ground before me that there was indeed an entitlement on the facts here for the Society to intervene. Therefore, one has to consider what is the proper approach of a court when faced

with an application under para 6(4) for a direction to the Law Society to withdraw the intervention. That has been a matter of consideration by the courts over the years, but it is now accepted by both parties before me that the decision of the Court of Appeal in *Holder v Law Society* [2003] EWCA Civ 39, [2003] 3 ALL ER 62 sets out the appropriate guidelines. There is, as has been said, a two stage process. Carnworth LJ's judgment approves what Neuberger J said in *Dooley v Law Society* (15 September 2000, unreported) was the proper approach as follows "First it" (that is the court):

"must decide whether the grounds under paragraph 1 are made out in this case primarily whether there are grounds for suspecting dishonesty. Secondly, if the court is so satisfied it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question the court must carry out a balancing exercise between the need and the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues."

[18] I pause to say the references to dishonesty in that citation of course refer to the particular facts of *Dooley v Law Society* and, as I have stressed, there is no question of any inference or suggestion of dishonesty in the present case. The parties are agreed that what I have to do is firstly to decide whether or not there were grounds for the intervention and that is common ground for the reasons I have mentioned, and then I have to conduct the balancing exercise to which Neuberger J referred.

[19] I would also draw attention, as indeed the parties have done in submissions before me, to various other passages in Carnworth LJ's judgment. He referred with approval to observations of Sedley LJ in *Giles v Law Society* in which Sedley LJ and Lindsay referred to:

". . . intervention, the consequences of what are undoubtedly drastic and potentially terminal for a solicitor's practice."

[20] Sedley LJ went on to say:

"It is by common consent a matter for the court's judgment (I prefer not to use the word discretion in this context) whether it should direct withdrawal – a judgment which may be significantly, though not conclusively, affected by the Law Society's own view of the facts, since the view taken by the professional body charged with the regulation of solicitors' practices is in itself a relevant evidential factor to which the Judge not only can but must have regard."

[21] Carnworth LJ also noted at para 33 of his judgment as follows:

"The Law Society also has a 'margin of discretion', but the court has a separate duty to consider the merits of the case in accordance with the principles I have discussed while paying due regard as Sedley LJ said (see *Giles's* case above) to the views of the Law Society, as the relevant professional body."

[22] There is no doubt about the grounds here. Really the question before me is which side the balance comes down. There clearly is a serious public interest in protecting the public. That is why of course the Law Society is given powers of intervention. By the same token there clearly is prejudice to a solicitor where there is an intervention. As Sedley LJ said, an intervention is "potentially terminal."

ix) <u>PATHANIA PS & ORS V LAW SOCIETY [2004]</u> PHILP ENGELMAN, BOWER COTTON BOWER, TIMOTHY DUTTON KC. RUSSELL COOKE

1. On Friday the 2nd July 2004 I heard an application under CPR 24.2 (a)(i) for an order summarily dismissing the claim in these proceedings as having no real prospect of success. The proceedings were brought under paragraph 6(4) of Part 2 of the first

schedule to the Solicitors Act 1974 by six Claimants, the first three of whom had previously carried on business as solicitors in partnership under the name the Bower Cotton Partnership, against the Law Society for an order directing the Society to withdraw its notice of intervention in the practice of the first Claimant, Paul Simms *("Mr Simms")* which had been given on the ground that the Council of the Law Society had reason to suspect that Mr Simms was guilty of dishonesty pursuant to paragraph 1(i)(a)(i) of the schedule. The fourth to sixth Claimants were, at all material times, salaried partners. At the close of the hearing on that day I indicated that I would accede to the Law Society's application and dismiss the proceedings, but because of lack of time, would give my reasons in writing at a later date. These are those reasons.

x) SRITHARAN AND ANR V THE LAW SOCIETY [2004] (HC) MANJIT GILL KC, KENNETH HAMER KC

4. On 24th November 2004 the Chairman of the Adjudication Panel was presented with, and considered, a caseworker memorandum dated 22nd November 2004, which summarised the facts, annexed a copy of the Report, identified the relevant parts of the Solicitors Account Rules, identified the issues of law and fact relating to suspicion of dishonesty, and identified the issue of protection of the public. Having considered that, the Chairman concluded that there was, in the words of paragraph 1(a) of Part 1 of Schedule 1 to the Solicitors Act 1974: "reason to suspect dishonesty", on the part of Mr Sritharan and the second claimant. Resolutions were thereupon made, and notices given, under paragraph 6 of Part II of Schedule 1 (practice monies) and under paragraph 9 (practice documents). The effect of exercising these intervention powers on the grounds of suspected dishonesty is immediately to suspend the practising certificate of the solicitor: see section 15(1A) of the 1974 Act. He may however apply to the Society for a termination of the suspension, with an appeal against any refusal lying to the Master of the Rolls: see section 16(3) and (5).

5. It is obvious, and well recognised in the authorities, that these intervention powers are draconian. Their effect, when exercised, is to destroy the business by which the solicitor has hitherto made his living, to render unemployed its employees, and to deprive its clients of access to the services for which they have retained the firm. The protection of these various interests afforded by the legislation is provided by paragraph 6(4) and (5) and paragraph 9(8), (9) and (11). Paragraph 6(4) allows the solicitor to apply to the court for an order that the Society should withdraw the notice in relation to client monies, and such an order if made, allows the court "to make such other order with respect to the matter as it may think fit" (see paragraph 6(5)). There is similar, but not identical, provision under paragraph 9. The solicitor may apply under paragraph 9(8) to the court for an order directing the Society to deliver up the documents "to such person as the applicant may require" and, on such an application, the court "may make such order as it thinks fit" (see paragraph 9(11).

x) SRITHARAN AND ANR V THE LAW SOCIETY [2004] (HC) MANJIT GILL KC, KENNETH HAMER KC

The regulatory framework

10. Paragraph 1(1)(a) in Part I of schedule 1 to the Solicitors Act 1974, read with section 35 of that Act, provides that the intervention powers conferred by Part II of schedule 1 shall be exercisable where the Council of the Law Society "have reason to suspect dishonesty on the part of (i) a solicitor, or (ii) an employee of a solicitor . . . in connection with that solicitor's practice . . .".

11. Where the intervention powers are exercisable, the Council may pass a resolution under paragraph 6 in Part II of schedule 1 to the effect that any sums of money to which that paragraph applies, and the right to recover or receive those sums, shall vest in the society. In those cases where the powers conferred by paragraph 6 are

exercisable by virtue of paragraph 1 in Part I of the schedule (which includes cases in which there has been reason to suspect dishonesty), the paragraph 6 powers apply to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice. So, in such cases, the powers apply both to monies held in any client account and to monies in the firm's office account. The effect of a resolution under paragraph 6 is that "all such sums shall vest accordingly . . . and shall be held by the Society on trust to exercise in relation to them the powers conferred by [Part II of the schedule] and subject thereto upon trust for the persons beneficially entitled to them".

12. Subparagraphs (3) to (5) of paragraph 6 are in these terms:

"(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 8 days of the service of a notice under subparagraph (3), the person on whom it was served, on giving not less than 48 hours notice in writing to the Society . . . , may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit."

13. In cases where the powers conferred by Part II of the schedule are exercisable by virtue of paragraph 1 in Part I, paragraph 9 provides that the Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society of all documents in the possession of the solicitor or his firm in connection with his practice. The Society shall serve on the solicitor a notice that possession has been taken by the person appointed on its behalf – paragraph 9(7). The solicitor may apply to the High Court (within 8 days of the service of the notice) for an order directing the Society to deliver the documents to such person as the applicant may require – paragraphs 9(8) and (9). On an application under paragraph 9(8) the court may make such order as it thinks fit – paragraph 9(11).

14. Section 1(c) of the 1974 Act provides that no person shall be qualified to act as a solicitor unless he has in force a practising certificate. Section 15(1A) – which was introduced by section 91(2) of the Courts and Legal Services Act 1990 – provides for the suspension of a solicitor's practising certificate in a case where intervention powers are exercised on suspicion of dishonesty. The section must be read with section 15(1B):

"15(1A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 1 has been exercised in relation to a solicitor by virtue of paragraph 1(1)(a)(i) . . . [reason to suspect dishonesty on the part of the solicitor] . . . the exercise of that power shall operate immediately to suspend any practising certificate of the solicitor for the time being in force.

(1B) Subsection (1A) does not apply if, at the time when the power referred to there is exercised, the Society directs that subsection (1A) is not to apply in relation to the solicitor concerned."

15. Where a solicitor's practising certificate is suspended by virtue of section 15(1A) the solicitor may (at any time before the certificate expires) apply to the Society to terminate the suspension – section 16(3) of the 1974 Act. If the Society refuses an application under section 16(3), the solicitor may appeal against the Society's decision to the Master of the Rolls – section 16(4) of the Act.

16. It is important to keep in mind that the intervention powers conferred by Part II of schedule 1 to the 1974 Act are exercisable where the Council "have reason to suspect dishonesty" – paragraph 1(1)(a). Whether or not dishonesty on the part of the solicitor is established is a matter for the Solicitors' Disciplinary Tribunal on an

application made by the Society under section 47 of the Act. But, where dishonesty in connection with the operation of the solicitor's client account is established before the Tribunal, the solicitor is almost invariably struck-off the Roll of Solicitors – see the observations in this Court in the recent appeal in *Bultitude v Law Society* [2004] EWCA Civ 1853 (unreported, 16 December 2004).

17. The origin of the provision in paragraph 1(1)(a) of schedule 1 to the 1974 Act - formerly enacted as section 31(1) of the Solicitors Act 1957 and re-enacted in the 1974 Act on consolidation - is found in paragraph 4(1) of the First Schedule to the Solicitors Act 1941. The power to intervene on reasonable suspicion may be seen as draconian; but it is clear from the 1941 Act that that power was thought to be a necessary incident of the requirement – imposed on the Law Society by section 2 of that Act – that a Compensation Fund be established, maintained and administered "for enabling the Society to make grants thereout . . . for the purpose of relieving or mitigating losses sustained by any person in consequence of dishonesty on the part of any solicitor or any clerk or servant of any solicitor in connection with any such solicitor's practice as a solicitor . . ."

18. It is, to my mind, important not to lose sight of the link between the obligation to maintain the Compensation Fund (now imposed by section 36(1) of the 1974 Act) and the power to intervene on reasonable suspicion of dishonesty (now contained in paragraph 1(1)(a) of schedule 1 to that Act). It is the power to intervene on suspicion of dishonesty which enables the Society to exercise control over those solicitors whose conduct might give rise to claims against the Compensation Fund; claims which, ultimately, have to be met by the profession as a whole.

The approach of the court on an application under paragraph 6(4)

19. The judge reminded himself, correctly, that the task of the court on an application by a solicitor under paragraph 6(4) of schedule 1 to the 1974 Act – that is to say, on an application for an order that the Law Society withdraw a notice served under paragraph 6(3) – is, first, to decide whether the grounds for intervention upon which the Council relied have been made out. If satisfied that the grounds for intervention have been made out, it is then necessary for the court to consider whether, in the light of all the evidence before it, the intervention should continue. That, second, question requires the court "to carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitable very serious consequences to the solicitor if the intervention continues" – see the observations of Mr Justice Neuberger in *Dooley v Law Society* (unreported, 1 September 2000), cited by Lord Justice Carnwath in *Holder v Law Society* [2003] EWCA Civ 39 at paragraph [15], [2003] 1 WLR 1059, 1065*C-D*.

xii) SIMMS & ORS V THE LAW SOCIETY [2005](CA) TIMOTHY DUTTON KC. RUSSELL COOKE

The legal framework

3. The intervention powers of the Law Society are conferred by Schedule 1 of the Solicitors Act 1974. The Society may intervene if it has "reason to suspect dishonesty" on the part of a solicitor (para 1(i)(a)). The powers available following intervention include the power to vest practice monies of the solicitor in the Society (para 6), and to require delivery up of practice documents to the Society (para 9). The intervention has the effect of suspending the Practising Certificate of the solicitor (section 15(1)(A)).

4. A solicitor who is served with a notice of intervention has a right to challenge it by applying to the Court within 8 days for an order directing the withdrawal of the intervention notice (para 6(4)). The application is made by a Part 8 claim. If the Court makes such an order, it may make "such other order with respect to the matter as it thinks fit" (see para 6(5)). At the hearing of the application the Court

may have regard, not only to the material before the Society at the date of the intervention, but to any other relevant material before the Court (*Buckley v The Law Society No 2* [1984] 1 WLR 1101). The Court conducts a "two-stage" process:

"First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily whether there are grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences if the intervention continues." (*Holder v the Law Society* 2003 1 WLR 1059, 1065, quoting Neuberger J in *Dooley v the Law Society* (unreported) 15th September 2000)

xiii) GAUNTLETT V THE LAW SOCIETY [2006] NICHOLAS PEACOCK

9. The powers exercisable by the Society on an intervention are contained in part 2 of schedule 1 of the Solicitors Act 1974, the material provisions for the purposes of this judgment are contained in paragraph 6 as follows:-

"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 applies

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;

(b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and

(c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within [8] days of the service of a notice under sub-paragraph (3), the person on it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit."

xiv) HERBERT & ORS V THE LAW SOCIETY [2007] TIMOTHY DUTTON QC , RUSSELL COOKE

4. The applications with which I am concerned are as follows:

In relation to the first intervention

(1) a Part 8 application by Mrs Afolabi and Mr Herbert for an order that the resolution to intervene be set aside, and for the Law Society to be prohibited from taking any further steps pursuant to the resolution;

(2) an interim application by Mr Otah to continue or (strictly) to reinstate an injunction restraining the Law Society from taking any steps by way of intervention in relation to the practice of Austin & Jed, under the first intervention, pending the hearing of a Part 8 application by him to set aside the first intervention;

In relation to the second intervention

(3) an interim application by Mr Otah for an injunction similar to that which he seeks under (2) above, but in relation to the second intervention, pending a decision by him whether to seek to have the second intervention set aside by a Part 8 application;

(4) an application by the Law Society for orders pursuant to paragraphs 9(4) and 10(1) of Part 2 of Schedule 1 to the Act, for the production and delivery of documents to its Agent, and for the re-direction of mail.

5. As will appear, Mr Otah's status as an alleged partner in Ann Francis & Co and as a partner in Austin & Jed is the main reason why the applications arising from the two interventions, and indeed the interventions themselves, are related to each other. Mr Ogunjebe has taken no part in the proceedings at all.

6. The jurisdiction and proper approach of the Court when faced with challenges by solicitors to interventions by the Law Society into their practices has been the subject of a recent exhaustive analysis by the Court of Appeal in *Sheikh v The Law Society* [2006] EWCA Civ 1577, in which a number of the previous decisions in the same field are reviewed and explained, in particular *Dooley v The Law Society* (unrep) 15 September 2000, *Holder v Law Society* [2003] EWCA Civ 39, [2003] 1 WLR 1059, *Giles v Law Society* (1995) 8 Admin LR 105, *Buckley v The Law Society (No.3)* (unrep) 9 October 1985 and *Sritharan v Law Society* [2005] EWCA Civ 476. It is common ground that I should direct myself by reference to the guidance in *Sheikh v Law Society*, and in particular to paragraphs 10-15 and 83-92 of the judgment of Chadwick LJ. Since there is no dispute as to the applicable legal principles, it is unnecessary for me to set them out in this judgment.

xv) LAW SOCIETY V ELSDEN & ORS [2015] TIMOTHY DUTTON QC, ANDREW PEEBLES, JEREMY BARNETT

Legal framework

Intervention powers

7.The Law Society (of which the SRA is a functionally independent arm performing regulatory functions) is empowered to intervene in a solicitor's practice in certain circumstances by the Solicitors Act 1974. Paragraph 1 of schedule 1 to the Act states that such powers can be exercised where (among other things):

"(a) the Society has reason to suspect dishonesty on the part of–

(i) a solicitor, or

(ii) an employee of a solicitor, or

(iii) the personal representative of a deceased solicitor,

in connection with that solicitor's practice or former practice or in connection with any trust of which that solicitor is or formerly was a trustee or that employee is or was a trustee in his capacity as such an employee;

…

(c) the Society is satisfied that a solicitor has failed to comply with rules made by virtue of section 31, 32 or 37(2)(c);

…

(m) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a solicitor to protect–

(i) the interests of clients (or former or potential clients) of the solicitor or his firm, or

(ii) the interests of the beneficiaries of any trust of which the solicitor is or was a trustee."

8.The Law Society (through the SRA) makes rules as to professional practice, conduct, discipline and accounting matters pursuant to sections 31 and 32 of the 1974 Act, to which reference is made in paragraph 1(c) of the schedule to the Act.

9.The Legal Services Act 2007 gives the Law Society similar powers to intervene in relation to a "licensed body" such as Sai-Donne. Paragraph 1 of schedule 14 to the 2007 Act provides for powers of intervention to be exercisable where one or more "intervention conditions" are satisfied. By paragraph 1(2), the "intervention conditions" include:

"(a) that the licensing authority is satisfied that one or more of the terms of the licensed body's licence have not been complied with;

…

(d) that the licensing authority has reason to suspect dishonesty on the part of any manager or employee of the licensed body in connection with–

(i) that body's business,

(ii) any trust of which that body is or was a trustee,

(iii) any trust of which the manager or employee of the body is or was a trustee in that person's capacity as such a manager or employee, or

(iv) the business of another body in which the manager or employee is or was a manager or employee, or the practice (or former practice) of the manager or employee;

…

(f) that the licensing authority is satisfied that it is necessary to exercise the powers conferred by this Schedule (or any of them) in relation to a licensed body to protect–

(i) the interests of clients (or former or potential clients) of the licensed body,

(ii) the interests of the beneficiaries of any trust of which the licensed body is or was a trustee, or

(iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee."

10. Guidance as to the meaning of "dishonesty" in this context is to be found in *Bryant v Law Society* [2007] EWHC 3043 (Admin), [2009] 1 WLR 163. The Divisional Court there held that the decision of the Court of Appeal in *Law Society v Bultitude* [2004] EWCA Civ 1853 stood as "binding authority that the test to be applied in the context of solicitors' disciplinary proceedings is the *Twinsectra* test … as it was widely understood before [*Barlow Clowes International Ltd v Eurotrust International Ltd* [2005] UKPC 37*,* [2006] 1 WLR 1476] …, that is a test that includes the separate subjective element" (see paragraph 153). The Court accordingly concluded (in paragraph 155) that, in the case before it, the tribunal "should … have asked itself two questions when deciding the issue of dishonesty: first, whether [the solicitor] acted dishonestly by the ordinary standards of reasonable and honest

people; and, secondly, whether he was aware that by those standards he was acting dishonestly". This formulation echoed the House of Lords' seeming endorsement in *Twinsectra Ltd v Yardley* [2002] UKHL 12, [2002] 2 AC 164 of:

"a standard which combines an objective test and a subjective test, and which requires that before there can be a finding of dishonesty it must be established that the defendant's conduct was dishonest by the ordinary standards of reasonable and honest people and that he himself realised that by those standards his conduct was dishonest".

11. Overcharging in probate matters can, potentially, justify intervention on the basis of suspected dishonesty. In *Sheikh v Law Society* [2006] EWCA Civ 1577, [2007] 3 All ER 183, Chadwick LJ (with whom Tuckey and Moore-Bick LJJ agreed) said (in paragraph 65):

"In paragraph [68] of his judgment the judge had observed, correctly, that: 'If a solicitor charges a client too much there are clear protections for the client, in particular in non-contentious matters like probates the process of requiring the solicitor to obtain a remuneration certificate from the Law Society'. At paragraph [115] he said this:

'[115] … In any event the law provides means for the protection of clients against solicitors who show a tendency to overcharge their clients. In particular there is the remuneration certificate procedure, and of course (something which I have hinted at but not specifically mentioned yet) in contentious matters there are procedures for the assessment of costs by experienced Costs Judges and District Judges. Interventions are not needed to achieve such protection.'

The Law Society submits that that is too narrow a view of the circumstances in which it may be appropriate to use its intervention powers. It points out that an honest solicitor should be endeavouring to charge no more than he (or she) believes is due: 'The protection of the public entails placing the proper emphasis on the duty of the solicitor to consider fees honestly, and not to take advantage of clients by setting them higher than is reasonable in the first place, particularly in probate matters'. I agree: *a fortiori* where the solicitor, as sole executor, is himself (or herself) the client. It seems to me that evidence of persistent and deliberate overcharging in probate matters of that nature might well justify intervention on the basis of suspected dishonesty."

12. Applications for intervention notices to be withdrawn can be made under paragraph 6(4) of schedule 1 to the Solicitors Act 1974. This states:

"Within 8 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice."

Likewise, an application for the withdrawal of an intervention notice can be made under paragraph 3(6) of schedule 14 to the Legal Services Act 2007.

13. The Court of Appeal considered the approach to be adopted to applications under paragraph 6(4) of schedule 1 to the 1974 Act in *Sheikh v Law Society*. Chadwick LJ noted that, if there is a challenge to the exercise of intervention powers, "the court will need to ask itself whether the grounds under Part I of schedule 1 to the 1974 Act upon which the Society relied at the time of the resolution to intervene were made out on the basis of the information available (or, perhaps, reasonably available) to the Society at that time" (paragraph 85). "If," Chadwick LJ said, "that question is answered in the negative, then … the resolution under paragraph 6(1) is of no effect and notices served under paragraph 6(3) or 9(1) are 'fundamentally flawed' …." However, "[c]ases in which there is a challenge to the validity of the resolution under paragraph 6(1) or to the service of intervention notices are rare." Where there is no such challenge, "the single issue for the court is whether the notices should be withdrawn" (paragraph 89), and "there is no doubt that that issue must be determined on the basis of the material before the court at

the time of the hearing" (paragraph 87). In addressing that question (as Chadwick LJ explained in paragraph 90):

"[T]he court must, indeed, weigh the risks of re-instating the solicitor in his (or her) practice against the potentially catastrophic consequences to the solicitor (and the inconvenience, and perhaps real harm, to his or her existing clients) if the intervention continues. In weighing the risks of re-instatement the court must have regard to the views of the Law Society as the professional body charged by statute with the regulation of solicitors … and as the body whose members are obliged, through the compensation fund, to underwrite those risks …. In a case where the Society has taken, and continues to take, the view that there are reasons to suspect dishonesty on the part of the solicitor, the court may well need to address those reasons in the context of weighing the risks of re-instatement; although, as *Buckley (No 3)* shows, that will not always be the case. It is important to keep in mind that (in cases where there is no challenge to the validity of the resolution or to the service of the notices) there is no free-standing requirement for the court to decide whether there are grounds for suspecting dishonesty; *a fortiori*, no requirement for the court to decide whether the solicitor is or has been dishonest. The issue arises (if at all) in the context of deciding whether the intervention needs to continue."

On the facts of the case, Chadwick LJ observed (at paragraph 97):

"It was unnecessary — and, I would say, inappropriate — in the present case for the judge to make a finding of honesty or dishonesty. The question which he had to decide was whether the suspicion of dishonesty raised by the material on which the Society relied had been dispelled by the oral evidence of Miss Sheikh and Mr Sampat so that he could safely direct withdrawal of the intervention notices notwithstanding the view of the Law Society, after hearing that evidence, that intervention needed to remain in place for the protection of the public. In my view he was wrong to conclude — on the basis of Miss Sheikh's demeanour as a witness — that he should answer that question in the affirmative. He was wrong because he did not address adequately the serious inconsistencies between her oral evidence at the trial on the one hand and the answers which she had given at interview, the explanations in her witness statements and the documentary material on the other hand."

xvi) <u>RAMASMY V THE LAW SOCIETY [2016]</u> JEREMY BARNETT

10. Applications for intervention notices to be withdrawn can be made under paragraph 6(4) of schedule 1 to the Solicitors Act 1974. This states:

"Within 8 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice."

xvii) <u>BLAVO V THE LAW SOCIETY [2017]</u>

<u>The statutory regime relating to interventions</u>

3. The statutory regime for the regulation of solicitors, by means of intervention into their practices, has been modified in recent years to address the increasing flexibility in the way in which solicitors can practise. For present purposes I need only consider certain provisions of the Solicitors Act 1974 ("the 1974 Act") and the Administration of Justice Act 1985 ("the 1985 Act").

4. Section 35 of the 1974 Act is headed "Intervention in solicitor's practice" and provides:

"The powers conferred by Part II of Schedule 1 shall be exercised in the circumstances specified in Part I of that Schedule."

Although the 1974 Act talks of an "intervention" in a practice and, indeed, that is what is said to happen when the Schedule 1 powers are exercised, in fact the schedule contains a number of separate powers not all of which are required to be, or are, exercised on every intervention. Each resolution for intervention specifies which of the powers applies in the case of the intervention in question.

5. Schedule 1; Part I, paragraph 1 of the 1974 Act provided, at the time of the interventions:

"(1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where-

(a) the Society has 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 former practice or in connection with any trust of which that solicitor is or formerly was a trustee or that employee is or was a trustee in his capacity as such an employee;

(aa) the Society has reason to suspect dishonesty on the part of a solicitor ("S") in connection with-

(i) the business of any person of whom S is or was an employee, or of any body of which S is or was a manager, or

(ii) any business which is or was carried on by S as a sole trader;…

(m) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a solicitor to protect-

(i) the interests of clients (or former or potential clients) of the solicitor or his firm, or

(ii) the interests of the beneficiaries of any trust of which the solicitor is or was a trustee."

6. In this case, it was on the basis that the circumstances identified in Schedule 1; Part I, paragraph 1(a)(i) of the 1974 Act existed that it was resolved to intervene and there was an intervention into Mr Blavo's practice.

7. Schedule 1; Part II, paragraphs 6, 9 of the 1974 Act provide:

"6(1) Without prejudice to paragraph 5, if the Society passes 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 Society'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 and to rules under paragraph 6B upon trust for the persons beneficially entitled to them.

(2) This paragraph applies-

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with

(i) his practice or former practice,

(ii) any trust of which he is or formerly was a trustee, or

(iii) any trust of which a person who is or was an employee of the solicitor is or was a trustee in the person's capacity as such an employee;…

(3) The Society shall serve on the solicitor…a certified copy of the…resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 8 days of the service of a notice under sub- paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit…

9(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society-

(a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession or under the control of the solicitor or his firm in connection with his practice or former practice or with any trust of which the solicitor is or was a trustee;…

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society…

(7) The Society, on taking possession of any documents or other property under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents or other property to such person as the applicant may require.

(9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society's notice under sub-paragraph (7)…

(11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit…"

8. In the case of the intervention into Mr Blavo's practice, the Panel of Adjudicators Subcommittee passed a resolution for the purposes of Schedule 1, Part II, paragraph 6 of the 1974 Act and notified Mr Blavo of the same by its letter dated 13 October 2015. By the same letter it gave Mr Blavo notice in accordance with paragraph 9 of the same schedule. The effect of the notice for the purpose of paragraph 6 was that (subject always to the intervention being effective (as to which, see further below)) Mr Blavo had a limited time to make an application to court for the notice to be withdrawn and for consequential remedies. Under paragraph 9 Mr Blavo had a similarly limited time to make an application to court in relation to documents but, in that case, the period of time was measured from a different date (that is, from the date when a further notice, that possession of documents had been taken, was served). In this judgment I shall describe each application as "an 8 Day Application". As a matter of fact, it appears that the paragraph 6 and paragraph 9 powers were the ones on which, in this case, it was intended to rely in the conduct of the intervention into Mr Blavo's practice.

xviii) <u>NEUMANS LLP V THE LAW SOCIETY [2017]</u> RADCLIFFES

<u>Legal framework</u>

21. The Law Society (of which the SRA is a functionally independent arm performing regulatory functions) has long had an ability to intervene in a solicitor's practice. Nowadays, powers of intervention in relation to individual solicitors are to be found in the Solicitors Act 1974 ("the 1974 Act"). In the case of a "recognised body" such as

Neumans, the power to intervene is conferred by schedule 2 to the Administration of Justice Act 1985 ("the 1985 Act"). Paragraph 32(1) of this schedule provides as follows:

"Subject to sub-paragraph (2), where—

(a) the Society [i.e. the Law Society] is satisfied that a recognised body or a manager of such a body has failed to comply with any rules applicable to the body or manager by virtue of section 9 of this Act; or

…

(d) the Society has reason to suspect dishonesty on the part of any manager or employee of a recognised body in connection with

(i) that body's business,

(ii) any trust of which that body is or was a trustee,

(iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or

(iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee; …

…

the powers conferred by Part II of Schedule 1 to the 1974 Act shall be exercisable in relation to the recognised body and its business in like manner as they are exercisable in relation to a solicitor and his practice."

22. Section 9 of the 1985 Act, to which there is reference in paragraph 32(1)(a) of schedule 2, empowers the Law Society to make rules in respect of recognised bodies, including provision for rules made under the 1974 Act to have effect in relation to recognised bodies and their managers and employees. The 1974 Act, in turn, allows the Law Society to make rules as to professional practice, conduct, discipline and accounting matters.

23. Applications for intervention notices to be withdrawn can be made under paragraph 6(4) of schedule 1 to the 1974 Act. This states:

"Within 8 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice."

24. The Court of Appeal considered the approach to be adopted to applications under paragraph 6(4) of schedule 1 to the 1974 Act in *Sheikh v Law Society* [2006] EWCA Civ 1577, [2007] 3 All ER 183, which concerned an intervention pursuant to the 1974 Act. Chadwick LJ noted that, if there is a challenge to the exercise of intervention powers, "the court will need to ask itself whether the grounds under Part I of schedule 1 to the 1974 Act upon which the Society relied at the time of the resolution to intervene were made out on the basis of the information available (or, perhaps, reasonably available) to the Society at that time" (paragraph 85). "If," Chadwick LJ said, "that question is answered in the negative, then … the resolution under paragraph 6(1) is of no effect and notices served under paragraph 6(3) or 9(1) are 'fundamentally flawed' …." However, "[c]ases in which there is a challenge to the validity of the resolution under paragraph 6(1) or to the service of intervention notices are rare." Where there is no such challenge, "the single issue for the court is whether the notices should be withdrawn" (paragraph 89), and "there is no doubt that that issue must be determined on the basis of the material before the court at the time of the hearing" (paragraph 87).

25. In addressing that question (as Chadwick LJ explained in paragraph 90):

"[T]he court must, indeed, weigh the risks of re-instating the solicitor in his (or her) practice against the potentially catastrophic consequences to the solicitor (and the inconvenience, and perhaps real harm, to his or her existing clients) if the intervention continues. In weighing the risks of re-instatement the court must have regard to the views of the Law Society as the professional body charged by statute with the regulation of solicitors … and as the body whose members are obliged, through the compensation fund, to underwrite those risks …. "

26. The decided cases also provide authority for the following propositions:

i) The intervention procedure laid down in the 1974 and 1985 Acts is compatible with article 6 of the European Convention on Human Rights and article 1 of the First Protocol to that Convention. In *Holder v Law Society* [2003] EWCA Civ 39, [2003] 1 WLR 1059, Carnwath LJ explained (at paragraph 31):
"The intervention procedure, now contained in the Solicitors Act 1974, is long-established (dating back to 1941, in its earliest form), and has been reviewed by the court on many occasions. As appears from the cases to which I have referred, it has been recognised as 'draconian' in some respects, but necessary for the protection of the public interest; and the courts have repeatedly emphasised the 'balancing exercise' which it involves. I see no material difference between this and the 'fair balance' which article 1 [of the First Protocol] requires. Nor do I see any reason why the Human Rights Act 1998 should be thought to have changed anything. There has long been a right of individual petition to the Strasbourg court for breaches of the Convention, but we have not been referred to any questioning of the intervention procedure under article 1. I see no arguable grounds for thinking that the margin allowed to the legislature has been crossed, particularly having regard to the deference which is properly paid to an Act of Parliament, as compared to an administrative decision: see *International Transport Roth GmbH v Secretary of State for the Home Department* [2003] QB 728, 746, 765, paras 26, 83";

ii) The rules of natural justice do not apply as such to an intervention. As Sedley J observed in *Giles v Law Society* (1995) 8 Admin LR 105, "The manifest purpose of Sch 1 to the Solicitors Act 1974 … is to create an ex parte procedure leading where appropriate to intervention". Sedley J went on to say that "there is nothing on the face of the schedule which takes out of the hands of the Law Society the decision what, if any, information it is right to give to the solicitor either before or immediately after the moment of intervention", and "the want of any provision in Sch 1 for notice to be given to the solicitor of particulars of a suspected breach other than a failure to comply with certain specified rules demonstrates not an omission which (in the phrase of Byles J) it is for the justice of the common law to supply, but an intelligible scheme of professional self-regulation for the protection of clients and the public which defers, but does not deny, a due opportunity for the solicitor to know the case against him or her and to challenge it and its consequences before a court of law". At the time, paragraph 1(2) of schedule 1 to the 1974 Act stipulated that the Law Society could not intervene on the basis of failure to comply with rules made under the Act (but not other grounds of intervention) without giving the solicitor prior notice. That provision has since been repealed, but I cannot see that that *removal* of a notice requirement can have imported the rules of natural justice. In that connection, it is noteworthy that in *Gadd v Law Society* [2012] EWHC 2843 (QB) Sharp J took it (at paragraph 49) that "the common law principles of natural justice do not apply to the intervention process";

iii) As can be seen from the passages from the judgment of Chadwick LJ quoted in paragraph 24 above, it can potentially be appropriate for the Court to direct an intervention to be withdrawn because the grounds on which the SRA relied at the time of the resolution to intervene were not made out. In *Giles v Law Society*, Sedley J had noted:

"If it is demonstrated to the court that a notice … is fundamentally flawed (for example, because it is based on an ultra vires resolution) it may well be that a direction for withdrawal should be made ex debito justitiae, leaving it to the Law

Society to decide whether, in the light of what it then knows, it ought to pass a fresh resolution to intervene";

iv) "In the exercise of its powers of intervention the Law Society must of course comply with the Human Rights Convention" (per Staughton LJ in *Holder v Law Society*, at paragraph 38). That means that questions of proportionality are capable of arising. It is, however, important to have in mind "the 'all important' factor, when considering issues of proportionality, of the 'margin of appreciation or discretion' or 'area of judgment' allowed to the legislator and the decision-maker" (per Carnwath LJ in *Holder*, at paragraph 31). The SRA thus "has a 'margin of discretion'" (Carnwath LJ, at paragraph 33);

v) There is room for argument as to whether the Court should always direct withdrawal where the SRA's decision was not justifiable at the time it was taken. In *Giles v Law Society*, Sedley J said:

"even in a case where it can be shown by the solicitor that the original notice ought not to have been issued because, say, the original evidence prompting the intervention was too exiguous to found a reasonable suspicion, the court need not direct withdrawal if on intervention abundant evidence of dishonesty has been found".

In *Sheikh v Law Society*, on the other hand, Chadwick LJ said this (at paragraph 92):

"I should add (by way of parenthesis) that, for my part, I confess to some doubt whether, as Sedley J suggested in *Giles v Law Society*, the court could refuse to direct withdrawal of a notice which 'ought not to have been issued' because the original evidence prompting the intervention 'was too exiguous to found a reasonable suspicion' on the basis that abundant evidence of dishonesty had been found on intervention—if he intended to include in that example a case where, on a proper analysis of the position at the time the decision to intervene was taken by the society, the powers of intervention had not become exercisable. As Sir Robert Megarry V-C observed in *Buckley v Law Society* (*No 2*) [1984] 3 All ER 313 at 316, [1984] 1 WLR 1101 at 1105: 'the Law Society ought not to be free to intervene on inadequate grounds in the hope that what will be found will justify the intervention.' But I recognise that the Vice-Chancellor clearly took the view in that case that it would be open to the court to refuse to direct withdrawal notwithstanding that, on the facts known to the society at the time of the resolution, there was insufficient reason to suspect dishonesty. He said this, by way of example ([1984] 3 All ER 313 at 316, [1984] 1 WLR 1101 at 1105):

'On the available material the Law Society concludes (wrongly) that there are sufficient reasons for suspecting dishonesty, and passes the resolution. The intervention then reveals that there are other facts, previously unknown to the Law Society, which demonstrate that the solicitor is in fact grossly dishonest. On the hearing, the court must nevertheless direct the Law Society to withdraw the notice (and perhaps pay the costs), and leave the Law Society to begin again. [That] seems to me to be an unjust result that Parliament is unlikely to have intended.'

As I have said, the powers under Pt II of Sch 1 to the 1974 Act are exercisable only in circumstances within Pt I. If, at the time when the society purports to exercise its powers under Pt II, those powers have not become exercisable—because the pre-condition (the existence of circumstances within Pt I) is not met—it seems to me difficult to avoid the conclusion that the exercise of the powers was, indeed, ultra vires in the public law sense. But that is not how it has appeared to other judges in other cases. This is not a case in which it is said—or could be said—that the intervention powers were not exercisable at the time when they were exercised. It is unnecessary to decide the point; and I do not do so"; and

vi) The SRA can properly decide to intervene on the basis of risks rather than certainties. In *Buckley v Law Society (No 2)* [1984] 1 WLR 1101, Megarry V-C said (at 1106):

"The powers of intervention conferred by Schedule 1 are plainly powers that are intended to enable the society to nip in the bud, so far as possible, cases of dishonesty by solicitors. The power to act on suspicion is a strong power, and there must often be a real element of risk in its exercise. But the decision of Parliament that the society is to have power to act on suspicion necessarily involves a decision that the society is to take whatever risks are involved in so acting; and these include risks both to the society and to the solicitors concerned."

27. Miss Fenella Morris QC, who appeared for Neumans, argued that *Giles v Law Society* should not be taken as meaning that Neumans did not have a right to be heard in advance of any intervention. She pointed out that the decision pre-dated the Human Rights Act 1998; that, unlike the present case, it concerned the 1974 Act rather than the 1985 Act; and that the facts of the present case (in contrast to those of *Giles*) did not justify the SRA intervening on a without-notice basis.

28. I have not, however, been persuaded by these points. It is true that the *Giles* case was decided before the Human Rights Act was passed, but in *Holder v Law Society*, in which Carnwath LJ referred to *Giles*, the intervention procedure was held to be compatible with the European Convention on Human Rights and the First Protocol to it. Again, I can see no good reason for natural justice principles to have any greater application in the context of a 1985 Act intervention than they do with an intervention under the 1974 Act. Further, while it is doubtless very desirable that the SRA should give a solicitor or recognised body an opportunity to make representations where possible, I do not think the fact that that is a viable course on the particular facts can mean that the rules of natural justice are imported into the "intelligible scheme of professional self-regulation for the protection of clients and the public which defers, but does not deny, a due opportunity for the solicitor to know the case against him or her and to challenge it and its consequences before a court of law".

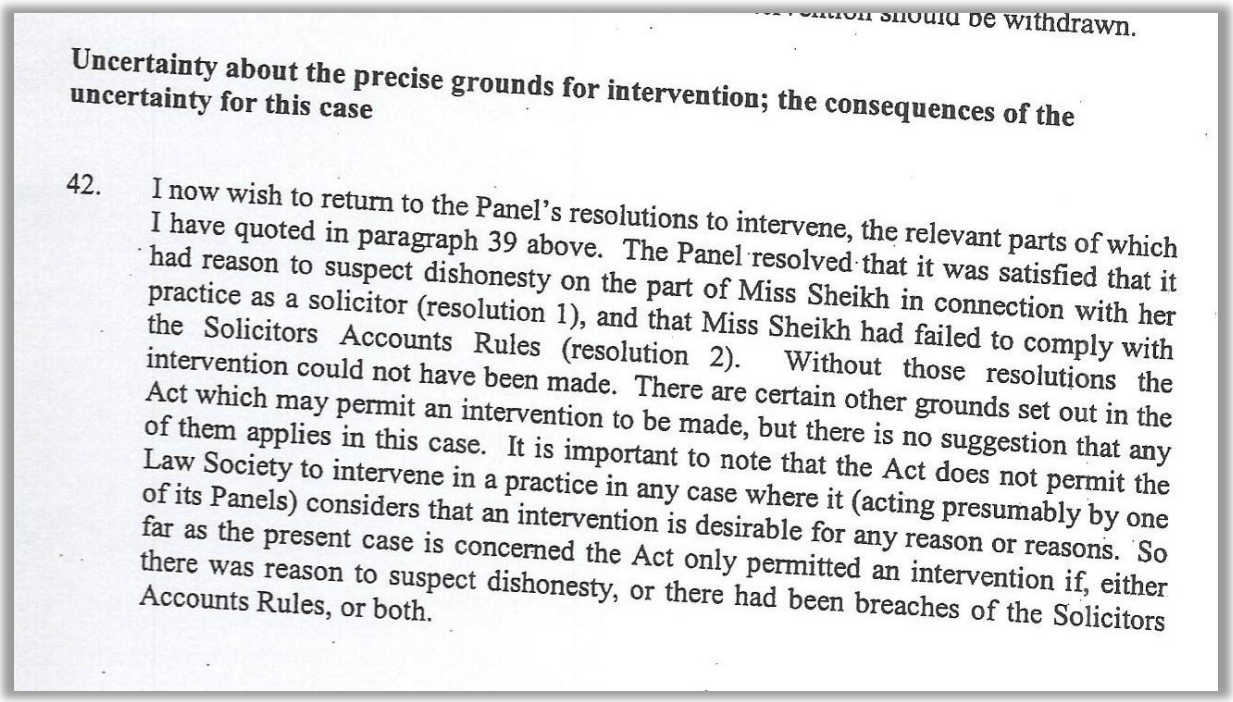
29. In the circumstances, it seems to me that the rules of natural justice do not apply as such in relation to intervention under either the 1974 Act or the 1985 Act, though a failure to allow a solicitor or recognised body to answer allegations where that would have been a viable course could potentially bear on the rationality and proportionality of a decision to intervene.

2 QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE , THE GOVERNMENT AND THE ATTORNEY GENERAL

The Para 6 (4) Vesting Resolution Withdrawal Application

95. The Judiciary and the Executive (the Law Society) have misapplied or disregarded Para 6 (4) as enacted by the Legislature or have made up their own law in substitution for Para 6 (4). Applying Professor Oiver's definition of treason, are the Judiciary and the Executive guilty of treason ?

96. If the Legislature, the Judiciary and the Executive say that Para 6 (4) Vesting Resolution Withdrawal Application is the Solicitor's substantive challenge to the intervention, will they explain how the Solicitor would know the case against him? The only document he will have received would be the Vesting Resolution and the Minute of the Panel Meeting . Park J identified the problem in my High Court challenge:



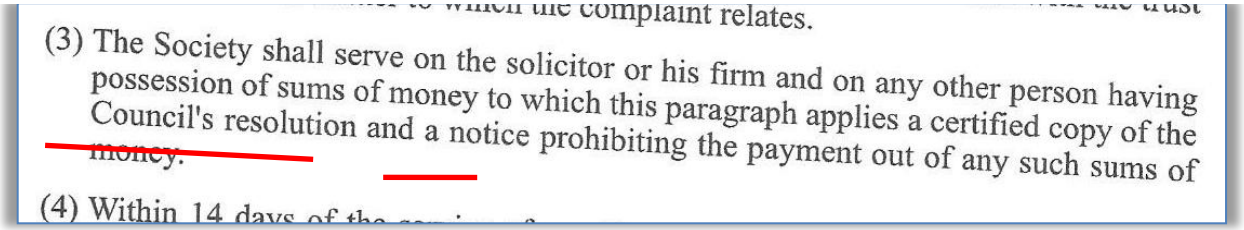
intervention should be withdrawn.

Uncertainty about the precise grounds for intervention; the consequences of the uncertainty for this case

42. I now wish to return to the Panel's resolutions to intervene, the relevant parts of which I have quoted in paragraph 39 above. The Panel resolved that it was satisfied that it had reason to suspect dishonesty on the part of Miss Sheikh in connection with her practice as a solicitor (resolution 1), and that Miss Sheikh had failed to comply with the Solicitors Accounts Rules (resolution 2). Without those resolutions the intervention could not have been made. There are certain other grounds set out in the Act which may permit an intervention to be made, but there is no suggestion that any of them applies in this case. It is important to note that the Act does not permit the Law Society to intervene in a practice in any case where it (acting presumably by one of its Panels) considers that an intervention is desirable for any reason or reasons. So far as the present case is concerned the Act only permitted an intervention if, either there was reason to suspect dishonesty, or there had been breaches of the Solicitors Accounts Rules, or both.

97. Will the Legislature, the Judiciary and the Executive explain how the Para 6 (4) Vesting Resolution Withdrawal Application can be the Solicitor's substantive challenge to the intervention when Para 6 (4) does not provide for the Withdrawal of the Vesting Resolution?

Not only is the Solicitor's challenge made under the wrong procedure, but the wrong application is made within that wrong procedure.



to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the

Para 6 (3) provides for service of documents upon

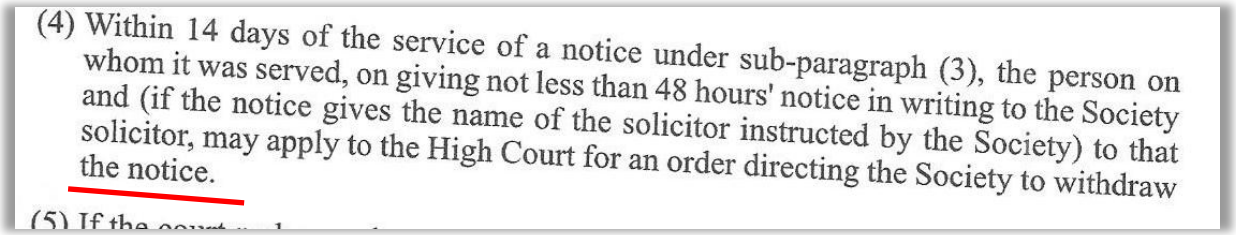
1) The Solicitor or his firm

2) Any other person in possession to which the Vesting Resolution applies (the Para 6 (3) Third Parties)

The documents which have to be served are :

1) A certified copy of the Vesting Resolution, and

2) Notice to the Part 6(3) Third Parties Prohibiting Payment Out



(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court ...

Para 6 (4) provides that the parties served, namely the Solicitor, his Firm and the Part 6 (3) Third Parties can make the Para 6(4) Withdrawal Application in relation to the **Notice Prohibiting Payment Out not for the withdrawal of the Vesting Resolution'.**

The Para 9 (8) Vesting Resolution Withdrawal Application

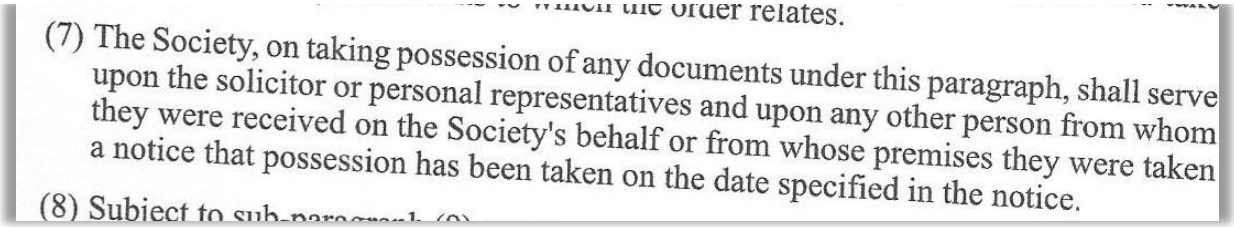
98. The Judiciary and the Executive (the Law Society) have misapplied or disregarded Para 9 (8) as enacted by the Legislature or have made up their own law in substitution for Para 9 (8). Applying Professor Oiver's definition of treason, are the Judiciary and the Executive guilty of treason ?

99. Will the Legislature, the Judiciary and the Executive explain how the Para 9 (8) Vesting Resolution Withdrawal Application can be the Solicitor's substantive challenge to the intervention when Para 9(8) does not provide for the Withdrawal of the Vesting Resolution?

Para 9 (8) provides that

1) The Solicitor, and
2) The Solicitor's Personal Representatives aforesaid, and
3) The Para 9(7) Third Parties

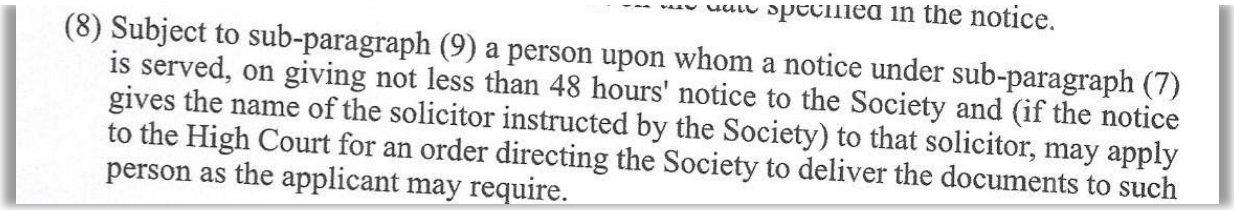
can make an application for an order **directing the delivery of documents elsewhere.**



... to which the order relates.

(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) ...



... on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

100. According to the Judiciary and the Executive (the Law Society) the Para 9(8) Documents Recovery Application has to be made within 8/14 days of the service of the Vesting Resolution. To state the obvious, the Para 9(8) Documents Recovery Application would only need to be made if the Solicitor's Documents had been removed from his possession. The Solicitor would not make the Para 9(8) Documents Recovery Application if he still had his Documents.

The Para 9(8) Documents Recovery Application is a standard application which Solicitors are advised to make and appeared have been in the all the Intervention Challenges so it can be assumed that in the cases the Solicitors are no longer in possession of their Documents. How did the Solicitor come to no longer have them?

K HOW CAN THE LAW SOCIETY OBTAIN THE SOLICITOR'S DOCUMENTS UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE OTHER THAN BY FRAUD AND OR BY BLACKMAIL AND OR BY BURGLARY?

101. Will the Legislature , the Judiciary and the Executive (the Law Society) explain how the Solicitor's Documents find their way into the hands of the Law Society if the Intervention does not follow the Lawful Procedure?

102. Will the Legislature , the Judiciary and the Executive (the Law Society) accept that the only way in which the Law Society would hold the Solicitor's Documents at this stage of the procedure would be one of the following:

1) The Law Society may have obtained a court order requiring delivery up
2) The Solicitor may have handed over the Documents relying on a false representation made by the Law Society or others making him believe that he had no choice
3) The Law Society may have threatened or blackmailed the Solicitor
4) The Law Society may have stolen the Documents.
5) The Solicitor may have willingly handed over the Documents ?

Of these 5) does not apply. A Solicitor intending to challenge the intervention would not willingly hand over his Documents

103. Will the Legislature , the Judiciary and the Executive (the Law Society) accept that the Solicitor's Documents cannot be in the possession Law Society at this stage on the authority of a court order requiring delivery up? A court order would have to be obtained under Para 9(2) which is a Substantive (and the correct) Procedure. The Law Society's case would start with a Particulars of Claim which the Solicitor would defend and a substantive hearing would take place many months, perhaps a year or more after the service of the Vesting Resolution. It follows that on the date of the service of the Vesting Resolution there would be no court order . Furthermore, the Solicitor's right to Document Recovery would have been fully determined under the Para 9(2) so why would he make another application for Document Recovery under Para 9 (8). In summary, the Documents could not have been removed under the authority of Court order for the Solicitor to make a Para 9(8) Application

104. Which of the following will the Legislature, the Judiciary, the Executive and the Attorney General accept is true

1) That the Executive obtains the document by committing a s.2 Fraud Act 2006 offence (false representation)
2) That the Judiciary does not know that the Executive obtains the Solicitor's Documents by committing a Fraud Act offence
3) That the Judiciary is guilty of aiding and abetting the Executive's Fraud Act offence
4) That the Legislature should have amended Para 9 of Schedule 1 (Documents Disclosure Procedure) when it enacted the AJA 85, but mistakenly did not; and Parliament's mistake has been used by the Executive and the Judiciary to commit the Law Society's Intervention Fraud
5) That the Legislature deliberately did not amend Para 9 so that it could be used by the Law Society and the Judiciary to commit the Intervention Fraud?

The Law Society attends the Solicitor's Premises on the day of the Intervention with the intention of removing the Documents. The Law Society knows that the Solicitor will be ignorant of the Schedule 1 Provisions and may only have a passing familiarity with the 1974 Act.

The Law Society gives the Solicitor the opportunity to consult a lawyer while they wait, knowing full well that any expert will also be ignorant of the real working of Schedule 1 Provisions.

When the Law Society arrived at my Office, I managed to speak to Paul Saffron of RadcliffeleBrasseur, who were claimed intervention experts. I asked Mr Saffron if I had to give access to the Law Society and permit the Law Society to remove my Documents. Mr Saffron advised that I should cooperate, because if I did not the Law Society would obtain a court order.

Mr. Saffron was right, but what he did not understand was that the application the Law Society would have to make would be the Para 9(4) Documents Production Order Application, which it was in the Solicitor's interests to require the Law Society to make because it was one of the Substantive Applications obliging the Law Society to disclose its allegations and its evidence.

Mr Saffron led me to believe that the Law Society would obtain the court order summarily and automatically, and would be back that afternoon to enforce it.

The Law Society led me to believe that it was a criminal offence not to hand over my documents. **Page 203**

There are four points to be made about Para 9 (3)

1) Parliament has been confused about the Documents Production Procedure since the 1941 Act. The Parliamentary Debates show that Parliament was unclear about whether the purpose of Document Production was to enable the Law Society to examine the Documents to prove the Intervention Ground at a time when the Law Society did not have the right to view the Solicitor's Documents without intervening, or whether the Document Production was the permanent delivery up of the Documents in the course of closing the Practice.

2) Para 9 (3) makes no sense: if the Solicitor refuses Voluntary Document Production, the Law Society has to make the Para 9 (4) Document Production Application (Interim or Final).

If the Solicitor successfully defends the Para 9 (4) Document Production Application (Interim or Final) and no Document Production Order is made against him, on the wording of the Para (1) he would still have committed a criminal offence by refusing to deliver up the Documents voluntarily.

3) In 1991, the Administration of Justice Act 1985 amended the Solicitors Act 1974 to include s.44B, which for the first time gave the Law Society the right to examine the Solicitor's Documents. Prior to that, the Law Society had to exercise its Schedule 1 Intervention Powers in order to examine the Solicitor's Documents. The amendment made the Documents Production Procedure obsolete and nonsensical.

105. Will the Legislature , the Judiciary and the Executive and the Attorney General state whether the Executive is guilty of blackmail contrary to Theft Act 1968 s.21 when it makes the threat of imprisonment?

The definition of blackmail is as follows:

> **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.

106. Will the Legislature , the Judiciary and the Executive and the Attorney General state whether the Legislature and the Judiciary are guilty of aiding and abetting blackmail?

107. Will the Legislature , the Judiciary and the Executive and the Attorney General state whether the Executive is guilty of burglary contrary to Theft Act 1968 s.9 when it enters the Solicitor's office with the intention of removing the Solicitor's Documents e and permanently depriving him of them? The definition of burglary is as follows:

> **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.

108. Will the Legislature , the Judiciary and the Executive and the Attorney General state whether the Legislature and the Judiciary are guilty of aiding and abetting the Executive's burglary of the Solicitor's Premises?

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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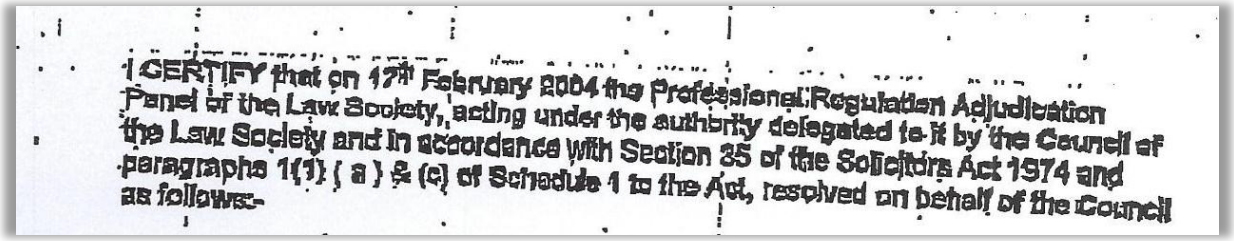
L WHY DO THIRD PARTIES HAVE THE RIGHT TO MAKE A CHALLENGE UNDER PARA 6(4) AND PARA 9(8)

109. If the Legislature , the Judiciary and the Executive consider that the Para 6(4) Vesting Resolution Withdrawal Procedure is the Solicitor's substantive challenge to the intervention, why do Para 6(3) Third Parties also have the right to make the Solicitor's substantive challenge?

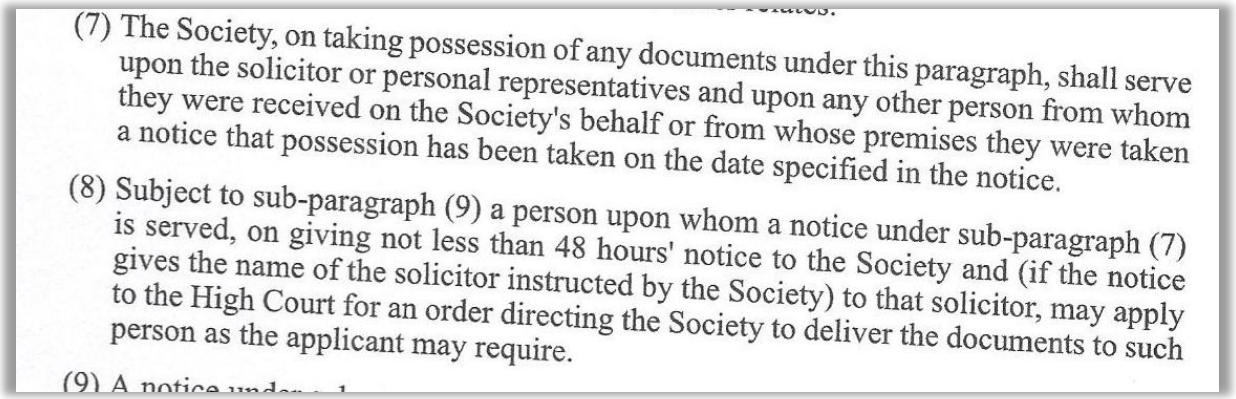
As my case shows , a Third Party would have to find about £500,000 -£600,000 to pay a legal team, work day and night for three months to prepare for a hearing and spend 13 days in court . Why would a Third Party want to do that to challenge an intervention against a Solicitor he may not even know?

110. If the Legislature , the Judiciary and the Executive consider that the Para 6(4) Vesting Resolution Withdrawal Procedure is the Solicitor's substantive challenge to the intervention, how would the Para 6(3) Third Parties would be able to make the application when they would not know the reasons for the Intervention. They would not even see the Para 6 (1) Vesting Resolution. All they would receive would be the certification that the Vesting Resolution had been made in the Para 6 (3) Notice viz:


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:-

111. If the Legislature , the Judiciary and the Executive consider that the Para 9(8) Documents Recovery Application is the Solicitor's substantive challenge to the intervention how would Para 9 (8) Third Parties have the right to make the application ?

112. If the Legislature , the Judiciary and the Executive consider that the Para 9(8) Documents Recovery Application is the Solicitor's substantive challenge to the intervention how would Para 9(8) know the reasons for the Intervention. The Para 6(1) Vesting Resolution might not even be made. There would be no need for it where there is no Money to be 'vested'. The Para 9 (7) Third Parties would also only receive the Documents List



(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under

M HOW DOES THE LAW SOCIETY ACHIEVE SIMULTANEITY UNDER THE LAW SOCIETY'S FRAUDULENT PROCEDURE ?

Proceedings under Schedule 1 of the 1974 Act are governed by Civil Procedure Rule 67.4 shown below in whcih the parts tinted pink refer to the Non Substantive Administrative Hearings and blue refer to the Substantive Hearings

The Non Substantive Administrative Applications (the Para 6 (4) Vesting Resolution Withdrawal Application and the Para 9(8) Procedural Hearings) are summary hearings in which the date is fixed immediately upon the issuing of the Claim Form . The Substanive Applications (the Para 5 (1) Statutory Freezing Order Applications, the Para 9(4) Documents Production Order Application and the Para 10(1) Mail Redeilvery Order Application) are not subject to the same requirement.

67.4

(1) Proceedings in the High Court under Schedule 1 to the Act must be brought –

(a) in the Chancery Division; and

(b) by Part 8 claim form, unless paragraph (4) below applies.

(2) The heading of the claim form must state that the claim relates to a solicitor and is made under Schedule 1 to the Act.

(3) Where proceedings are brought under paragraph 6(4) or 9(8) of Schedule 1 to the Act, the court will give directions and fix a date for the hearing immediately upon issuing the claim form.

The Para 6 (4) and 9(8) Procedural Hearings

(4) If the court has made an order under Schedule 1 to the Act, any subsequent application for an order under that Schedule which has the same parties may be made by a Part 23 application in the same proceedings.

(5) The table below sets out who must be made a defendant to each type of application under Schedule 1.

(6) At any time after the Law Society has issued an application for an order under paragraph 5 of Schedule 1 to the Act, the court may, on an application by the Society –

The Para 5 Substantive Freezing Order

(a) make an interim order under that paragraph to have effect until the hearing of the application; and

(b) order the defendant, if he objects to the order being continued at the hearing, to file and serve written evidence showing cause why the order should not be continued.

Paragraph of Schedule 1 under which the application is made	Defendant to application
Paragraph 5	if the application relates to money held on behalf of an individual solicitor, the solicitor
	if the application relates to money held on behalf of a firm, every partner in the firm
	if the application relates to money held on behalf of a LLP or other corporation, the LLP or other corporation
Paragraph 6(4) or 9(8)	the Law Society
Paragraph 8, 9(4), 9(5) or 9(6)	the person against whom the Law Society is seeking an order
Paragraph 9(10)	the person from whom the Law Society took possession of the documents which it wishes to dispose of or destroy
Paragraph 10	if the application relates to postal packets addressed to an individual solicitor, the solicitor
	if the application relates to postal packets addressed to a firm, every partner in the firm
	if the application relates to postal packets addressed to a LLP or other corporation, the LLP or other corporation
Paragraph 11	the trustee whom the Law Society is seeking to replace and, if he is a co-trustee, the other trustees of the trust

The title of the Para 5 Substantive Freezing Order Hearing Law Society (Claimant) v Solicitor (Defendant)

The title of the Para 6 (4) and 9(8) Procedural Hearings is Solicitor (Claimant) v Law Society (Defendant)

The title of the Substantive Para 10 Mail Redirection Order Proceedings are Law Society (Claimant) v Solicitor (Defendant)

For the Solicitor's Practice to be terminated effectively in the intervention , the following events have to take place simultaneously :

1) The Solicitor's Bank Accounts have to be frozen

2) The Solicitor's Documents have to be removed from his control

3) The Solicitor's Mail has to be redirected

4) The Solicitor has to be removed from any trusteeship

5) The Solicitor's Practicing Certificate has to be suspended

If all of these events do not take place simultaneously, the Intervention will not be accomplished effectively: the Solicitor could carry on working on his files in his practice; he could establish a new practice; he could transfer the files to another firm and carry on working under their aegis; he could start new bank accounts and he could deal with incoming and outgoing mail.

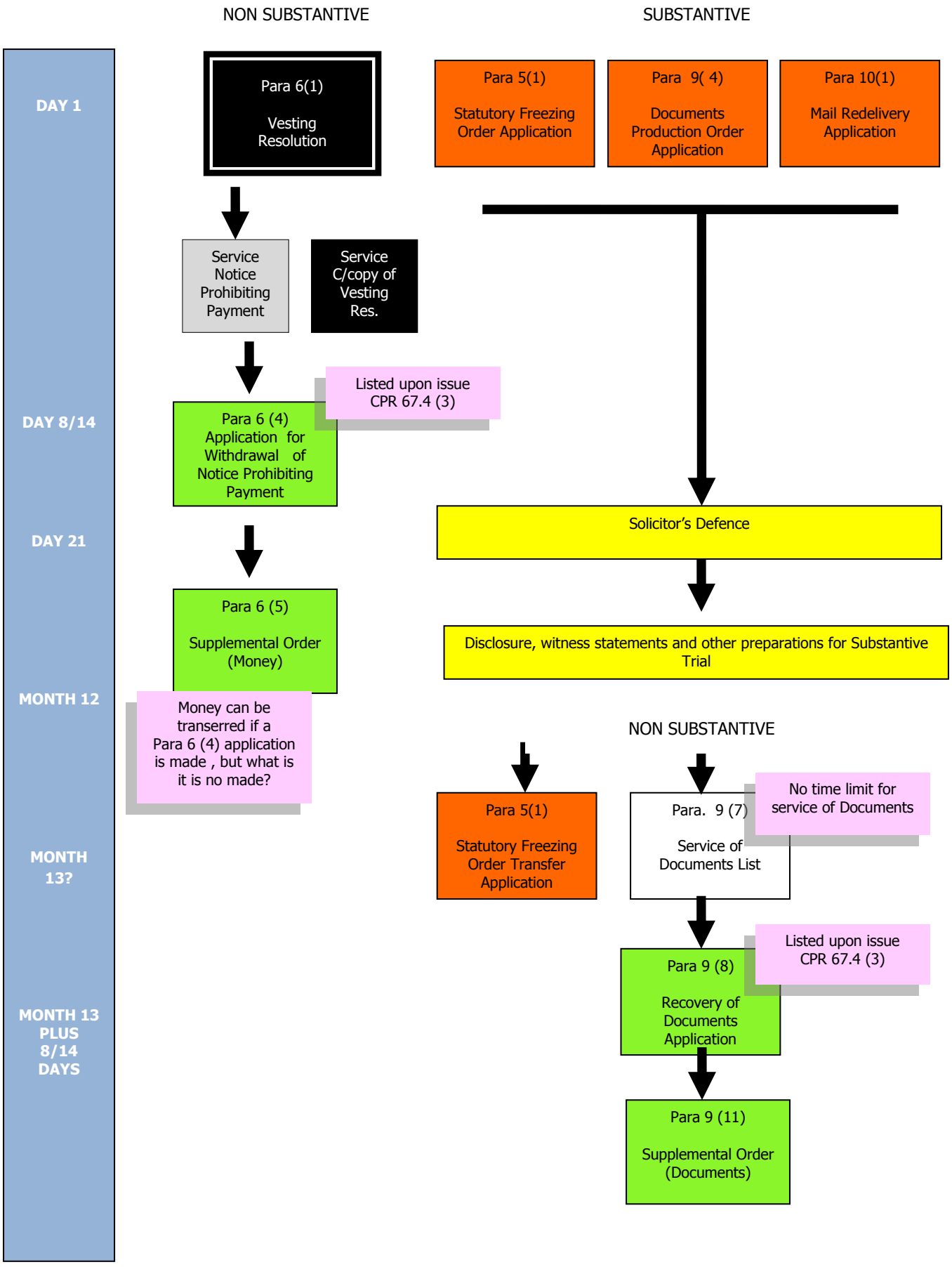
The only way in which simultaneity can be achieved comprehensively is under the Lawful Intervention Procedure.

Whatever authority the Vesting Resolution has (and it is obviously not that of a court order) it cannot achieve simultaneity because, while the Solicitor's Money may be controlled by the Vesting Resolution, Document Production and Mail Redelivery are governed under different procedures , the timing of which do not coincide with the Vesting Resolution Procedure .

Not only is the Para 6 (4) Withdrawal of the Notice Prohibiting Payment Out (a Non Substantive Application) determined independently of the Substantive Applications , the Para 6 (4) Withdrawal of the Notice Prohibiting Payment Out is determined independently of the other Non Substantive Application, the Para 9 (8) Recovery of Documents Application.

This lack of synchronicity is illustrated in the Diagrams below.

DIAGRAM SHOWING ABSENCE OF SIMULTANEITY BETWEEN SUBSTANTIVE AND NON SUBSTANTIVE PROCEDURES



If the Vesting Resolution and the Para 6 (3) Notice Prohibiting Payment Out are served on Day 1, the Para 6 (4) Withdrawal of the Notice Prohibiting Payment Out has to be issued by Day 14. As soon as it is issued, it is listed for summary hearing under Civil Procedure Rule 67. 4, say on Day 28.

Meanwhile, as it has to do if it seeks Document Production and Mail Redelivery, the Law Society issues the Documents Production Application and Mail Redelivery Application in the High Court which , as Substantive Procedures, will be heard significantly later. The Law Society also has to apply for a Para 5 (1) Statutory Freezing Order because it requires a Transfer Order to transfer the Solicitor's Banked Money.

These are the problems

1) The Substantive and Non Substantive Proceedings operate within different time frameworks, so how can they be synchronized?

2) What happens to the Solicitor's Documents and Mail pending the outcome of the Para 6 (4) Withdrawal Application?

3) The Para 9 (8) Documents Production Application and the Para 10(1) Mail Redelivery Application may take over a year to be heard. If the Para 6 (4) Withdrawal Application has been lost what happens to the Solicitor's Documents and Mail during that time?

4) What happens if the Para 6 (4) Withdrawal Application is lost by the Solicitor, and the Para 9 (8) Documents Production Application and the Para 10(1) Mail Redelivery Application is won by the Solicitor?

5) What happen if the scenario in 4) is reversed?

6) What happens if the Solicitor wins the Para 5 (1) Statutory Freezing Order Proceedings, but loses the Para 6 (4) Withdrawal of the Notice Prohibiting Payment Out Application?

7) How is Money transferred from the Solicitor's Bank Accounts under the Vesting Resolution Procedure if the Para 6 (4) Withdrawal Application is not made?

113. Will the Legislature, the Judiciary, the Executive explain how simultaneity is achieved under the Law Society's Procedure?

114. Will the Legislature, the Judiciary, the Executive and the Attorney General accept that if simultaneity cannot be achieved under the Law Society's Procedure, it is the wrong and fraudulent procedure?

N	DID THE LEGISLATURE INTEND THAT THE VESTING RESOLUTION COULD BE USED MULITIPLE TIMES EVERY YEAR, EVERY MONTH, EVERY WEEK , EVERY DAY, OR EVERY HOUR TO INTERVENE INTO THE SAME FIRM (WHICH IS POSSIBLE UNDER SCHEDULE 1) ?

115. If the Para 6(1) Vesting Resolution is not the subject of the Para 6 (4) Withdrawal Application which is an applcation for the withdrawal of the Para 6(3) Notice Prohibiting Payment Out, the consequence is that, even if the Solicitor 'wins' his case, the Law Society's resolution to intervene remains in place.

Does the Legislature, the Judiciary and the Executive say that that means that the Executive can intervene multiple times the back of the same resolution? Can the Executive intervene every day, every week, or every month for the rest of the Solicitor's professional life?

O	NO PROVISION TO TRANSFER MONEY UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE: THE ONLY WAY THE LAW SOCIETY CAN OBTAIN CONTROL OF MONEY IS TO STEAL IT

Under the Statutory Freezing Order Procedure, Money is transferred under the authority of a court order, application for which is made within the Statutory Freezing Order Proceedings.

Under the Vesting Resolution Procedure, a Transfer Order can be made as a Para 6(5) Supplemental Order (Money) if the Para 6(4) Withdrawal Application is lost.

However, there is no apparent provision for the Transfer of Money if the Para 6(4) Withdrawal Application is not made. A supplemental order can also be made within the Document Recovery Procedure under Para 9 (11), but, firstly, as it is provision is under the heading 'Documents' it is questionablke that an order pertaining to Money can be made and, secondly, as the Diagram illustrating synchronicity and non synchronicity shows, the Para 9 (8) Documents Recovery Application may be heard over a year later.

116. Will the Legislator, the Judiciary and the Executive and the Attorney General explain how Money is transferred out of the Solictor's Bank Account under the Law Society's Fraudulent Procedure?

P	NO PROVISION TO REDIRECT MAIL UNDER THE LAW SOCIETY'S FRAUDULENT INTERVENTION PROCEDURE. THE ONLY WAY THE LAW SOCIETY CAN HAVE MAIL REDIRECTED IS CRIMINALLY

1	ANALYSIS

The Law Society will have entered his office , sometimes by force, and started the proceess of removing his files and documents. The Law Society will have 'frozen' the Solicitor's Bank Accounts using the Vesting Resolution.

The Solicitor will be distressed and bewildered. He will have no idea what is happening and no means of finding out. In this chaos, the Law Society will present a number of forms for him to sign . One of them will be the form Mail Redelivery Consent Form addressed to the Post Office

Para 9 (1) of the Documents Production Procedure provides for Voluntary Production.

The Mail Redelivery Procedure does not provide for voluntary redelivery , so Parliament clearly did not contemplate that it was appropriate for the procedure to take place outside the supervision of the court. It can be surmised that Parliament had two reasons :

1) Parliament wanted to ensure that the redelivery was for a limited time

2) Parliament envisaged that a hearing would take place at which the arrangements could be made concerning the Solicitor's private mail either by negotiation or by court order

Para 10 (1) provides for the Mail Redirection Order made by the High Court to be limited for a period of 18 months.

The consent for redelivery which the Law Society unlawfully obtains from the Solicitor is for an indefinite period

The Postal Services Act 2000 provides

> **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.

2 QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE , THE GOVERNMENT AND THE ATTORNEY GENERAL

117. Will the Legislator, the Judiciary and the Executive and the Attorney General explain how Mail is redirected under the Law Society's Fraudulent Procedure?

There are three Substantive Applications:

1) The Para 5 (1) Statutory Freezing Order Application

2) The Para 9 (4) Documents Production Order Application

3) The Para 10 (1) Mail Redelivery Order Applications

The Law Society can elect not to apply for the Para 5 (1) Statutory Freezing Order to freeze the Solicitor's Bank Accounts, and to use the Para 6 (1) Vesting Resolution Procedure instead to control the

Solicitor's Banked Money but, unless the Solicitor has no Documents or Mail, the Law Society has no choice about making the other two Substantive Applications.

If the Law Society does not make the Para 10(1) Mail Redelivery Application how does it have the Mail redirected other than by a means which is a criminal offence under the Postal Services Act 2000

Q	**DID THE LEGISLATURE UNDERSTAND THAT THE DOCUMENTS PRODCUTION PROCEDURE WAS OBSOLETE AFTER THE INTRODUCTION OF S44B? WAS IT RETAINED SO THAT THE LAW SOCIETY COULD USE THE THREAT OF IMPRISONMENT IN PARA TO BLACKMAIL AND TERRORISE THE SOLICITOR ?**

1	**ANALYSIS**

1) DOCUMENT PRODUCTION PROCEDURE OBSOLETE AFTER THE INTRODUCTION OF S44B

In 1991, the Administration of Justice Act 1985 amended the Solicitors Act 1974 to include s.44B, which for the first time gave the Law Society the right to examine the Solicitor's Documents. Prior to that, the Law Society had to exercise its Schedule 1 Intervention Powers in order to examine the Solicitor's Documents, which it could only do if one of the Intervention Grounds was satisfied.

2) WHY THE DOCUMENT PRODUCTION PROCEDURE SHOULD HAVE CHANGED SINCE THE 1941 ACT

The following Table is a comparison of the Intervention Grounds under the respective Acts from 1941 -1974.

The Document Production was introduced in the 1941 Act, as an adjunct to the Compensation Fund which was created at the same time. The rigorousness of the procedure might have been warranted when the only Ground for Intervention was dishonesty relating to the Compensation Fund or even under the 1957 Act, when both Grounds for Intervention were dishonesty based, but could scarcely be appropriate under the 1965 Act and the 1974 Act when Intervention Grounds were widened to include Mental Heath Act Cases, bankruptcy, delay and account rule breaches; and after the introduction of s. 44B should have been radically overhauled because it was largely redundant.

1941 ACT	1957 ACT	1965 ACT	1974 ACT
Ground 1 Reasonable cause to believe that the Solicitor had been guilty of dishonesty resulting in a claim being made against the Compensation Fund	**Ground 1** Reasonable cause to believe that the Solicitor had been dishonest in relation to his practice Clause 31 (1)	**Ground 1** Reasonable cause to believe that the Solicitor had been dishonest in his practice 1957 Act Clause 31 (1)	**Ground 1** Reason to suspect the 'Solicitor Etc. or PR is guilty of dishonesty in connection with his practice Para 1(1) (a)
	Ground 2 Solicitor struck of or suspended with no arrangements in relation to his practice within 21 days. Section 31 (2) (a)	**Ground 2** Solicitor struck of or suspended with no arrangements in relation to his practice within 21 days. 1957 Act Section 31 (2) (a)	**Ground 6** Solicitor struck off the roll or suspended from practice Para 1(1) (g)
		Ground 3 Failure by Solicitor to provide explanation following allegation of undue delay s. 11	**Ground 7** Failure explain undue delay Para 3
		Ground 4 Bankruptcy. Mental illness AND undue delay and money at risk s. 12	**Ground 4** Bankruptcy etc Para 1(1) (d) and (e)
			Ground 5 Mental Health Act cases Para 1(1) (f)
		Ground 5 Undue delay by PR s. 13 (1) (a)	**Ground 2** Undue delay by PR Para 1(1) (b)
		Ground 6 Dishonesty by PR s 13 (1) (a)	
		Ground 7 Schedule 1 Provisions applied to deceased solicitor s.13 (1) (b	
			Ground 3 Failure to comply with

			the Rules Para 1(1) (c)
			Ground 8 Prison

3) PARA 9 (3) PENALTY RETAINED TO BLACKMAIL SOLICITOR

Under the Lawful Intervention Procedure, the only way the Law Society can obtain the Solicitor's Documents, where there is no Voluntary Production, is to make the Para 9 (4) Documents Production Order Application, a Substantive Procedure which requires the Law Society to file a Particulars of Claim setting out its allegations against the Solicitor which the Solicitor can defend.

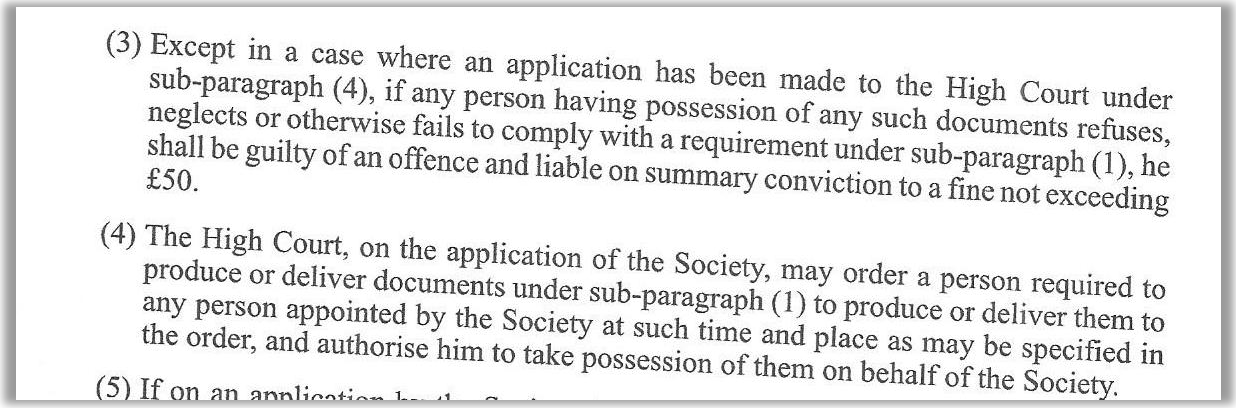
The Law Society's Fraudulent Intervention Procedure is designed to avoid the Substantive Procedure, so how does it obtain the Documents?

The answer is that the Law Society uses Para 9 (3) to threaten and blackmail the Solicitor into giving up the Documents. The following is an extract from the Law Society's Letter of Instruction to Solicitor at **Part 1A5 Page 82- Page 83**

> 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.

The material provisions are Para 9 (1) – (4)

> *Documents*
>
> 9 (1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society—
>
> (a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and
>
> (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).
>
> (2) The person appointed by the Society may take possession of any such documents on behalf of the Society.



(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.

(4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

(5) If on an application [illegible]

Para 9 (3) states that it is a criminal offence to fail or refuse to deliver up Documents, but **only if** the Law Society has not made the Para 9 (4) Document Production Order Application.

In the knowledge that neither the Solicitor nor any expert adviser he may consult will know anything about them, the Law Society withholds the full provisions:

1) that the Solicitor has the right to refuse to produce the Documents voluntarily.

2) that if the Solicitor refuses, the Law Society has to obtain the Documents Production Order under Para 9(4)

3) that if the Law Society makes the Para 9(4) Documents Production Application , the Para 9 (3) Penalty will not apply

5) THE NONSENSICALITY OFTHE PARA 9 (3) PENALTY

Parliament has been confused about the Documents Production Procedure since the 1941 Act. The Parliamentary Debates show that Parliament was unclear about whether the purpose of Document Production was to enable the Law Society to examine the Documents to prove the Intervention Ground at a time when the Law Society did not have the right to view the Solicitor's Documents without intervening, or whether the Document Production was the permanent delivery up of the Documents in the course of closing the Practice.

Para 9 (3) makes no sense: if the Solicitor refuses Voluntary Document Production, the Law Society has to make the Para 9 (4) Document Production Application (Interim or Final).

If the Solicitor successfully defends the Para 9 (4) Document Production Application (Interim or Final) and no Document Production Order is made against him, on the wording of the Para (1) he would still have committed a criminal offence by refusing to deliver up the Documents voluntarily.

2 QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE , THE GOVERNMENT AND THE ATTORNEY GENERAL

118. Did the Legislature understand that the introduction of s44B by the Administration of Justice Act 1985 would necessitate consequential amendments to the Documents Production Procedure in Schedule 1?

119. Did the Legislature understand that s44B made Para 9 of Schedule 1 obsolete and redundant?

120. Did the Legislature deliberately leave the procedure was left intact in order to facilitate the Law Society's Fraudulent Interventions and the Intervention Fraud?

R DOES THE WITHDRAWAL APPLICATION HAVE ANY PRECEDENT IN ANY JURISDICTION?

The Para 6(4) Withdrawal Application has no equivalent or comparable procedure or precedent. The procedure is unique to the Law Society's exercise of power of intervention under the Solicitors Act.

Applications for withdrawal are known under land registration procedures (applications to withdraw cautions or restriction) and within general ligiation (applications to withdraw a claim , proceedings or an offer made within proceedings , or in criminal law (an application to withdraw charges); but these cases cannot really be compared with from interventions. In these other cases, the applicant is withdrawing his own rights, interests and proceedings, not another person's rights, interests and proceedings.

The description' Application to Withdraw' is also a misnomer . How can one party (the Solicitor) apply for the withdrawal of an attempt made by another party (the Law Society) to enforce that other party's rights and interests? That is a nonsense.

A comparison can be made with some sort of pre action protocol or a pre action injunctive measure or even a cease and desist procedure, but the comparison is unconvincing

121. On what did Parliament base the notion of the withdrawal application?

S THE LEGISLATURE NEVER SAID THAT INTERVENTIONS WERE DRACONIAN. WHY DOES THE JUDICIARY INSIST THAT IT DID. IS THE JUDICIARY'S REPRESENTATION CARELESS OR FRAUDULENT?

1) THE COURT APPROPRIATES THE TERM 'DRACONIAN ' USED TO DESCRIBE THE POWER TO EXAMINE FILES AND RENDERED OBSOLETE BY S44B FOR USE IN A FALSE CONTEXT

The Law Society's right to examine the Solicitor's Document had always been viewed as being a 'severe' , 'drastic' and 'draconian' measure.

In the Parliamentary Debate on 2nd July 1965 (Solicitors Bill (Solicitors Act 1965)) , Mr Bell refers three times to the 'drastic action' which the Law Society can take against the Solicitor. What he is referring to is not the Statutory Freezing Order or the 1965 Non Vesting Resolution, but the Documents Production Procedure where by the Law Society can enter the Solicitor's premises by force to seize the Documents.

> Mr. Bell
>
> Paragraph 3 is the enforcement paragraph following on paragraphs 1 and 2. The general effect of paragraphs 1 and 2 is this. The Law Society may serve on a solicitor who has done something which attracts the provisions of the Schedule a notice requiring him to produce certain documents to officers of the Society or persons nominated by the Society. I will not go through the list of documents mentioned of which the Society is authorised to take possession. If he does not comply, paragraph 2 says:
> "(*a*) he shall be guilty of an offence";

and (*b*) that the Law Society may apply to the High Court which may order the person to comply with the requirement within a time limit and may attach to the order a penalty clause if he does not comply within the time limit. The penalty clause is that the Society may enter the premises of the solicitor concerned and seize and take away the documents and deeds, and so on, which they may find.

Paragraph 3 of the Schedule says:
"Upon taking possession of any such documents, the Society shall serve upon the solicitor and every person from whom those documents were received or from whose premises they were taken by virtue of an order made"
under paragraph 2.
"a notice giving particulars and the date of taking possession thereof."
The defect which I see in that paragraph is that the Society, which, after all, will have just taken the very drastic action—admittedly on the authority of the court, but, nevertheless, it is very drastic action—of entering by force the solicitor's premises and impounding documents

[ ]

On the other hand, a quite drastic procedure is proposed. Solicitor's premises may quite possibly be forcibly entered and documents taken away. He is entitled to know reasonably quickly what has been taken away. After all, these are documents of his practice—clients' documents and documents of such title such as those listed in paragraph 1 of the First Schedule.

[ ]

He has to be and is given some right of appeal against the somewhat drastic procedure which has been enforced upon him. This right of appeal to the High Court is one which, by paragraph 5, he can exercise within eight days after the service of the notice upon him.

In the Parliamentary Debate on 2 March 1974 (Solicitors Bill, Solicitors Act 1974) ,when Lord Stow Hill refers to the 'drastic' and 'severe' powers of the Law Society, he is referring to the change of the grounds from "reasonable cause to believe" to "reason to suspect" and, again, to the Document Production Procedure

He makes no mention whatsoever of the fact that , the Law Society can freeze the Solicitor's Bank Accounts on the grounds of mere suspicion.

LORD TANGLEY

Next we come to Part II of the Bill, and here we are dealing with the Schedules. The Schedules are really designed to protect clients; they are not for the protection of the solicitors at all. The Schedules are mainly the old Schedules amended and revised in certain respects, and they are brought into effect by Clause 5. I do not think I need say very much about them; they are mainly a repetition of the existing law. Clause 6 enables the Law Society to take over quickly the papers of a solicitor who has been practising on his own and has died. I am afraid that solicitors are not always as careful as they should be in arranging their own affairs—sometimes they are too busy in arranging their clients' affairs to consider their own. It may well be that the solicitor appoints executors who are not solicitors and who have no idea of what to do about the practice. In such cases the Law Society seeks power to take charge of the situation. That is wholly for the benefit of the clients.

LORD STOW HILL

My Lords, looking at the Bill as it were from the outside, what I should think might well strike one is particularly Clause 5 and Schedule 1, for this reason. In that clause and in that Schedule, if this Bill passes into law (as I hope it will) the Law Society is given extremely drastic powers to deal with the very occasional delinquent solicitor who is dishonest in his conduct of the affairs of a client or of a trust. They are drastic

powers and at first sight they seem to be extremely severe. [ ] I have examined the powers and I would not venture to submit to your Lordships that they are too severe. Severe they are, [ ]

I come to Clause 5, which has to be read together with Schedule 1 to which I referred earlier. It is a very striking clause and Schedule 1 is striking. At first sight, the powers seem very drastic. In point of fact, if one looks at Schedule 1, it is closely modelled on Schedule 1 of the 1965 Act, although it is extended in scope. I would not ask your Lordships to look at it in any detail, but it may he of some value to look at what I might call the high peak of severity. It is our duty as a legislative House on Second Reading of a Bill to examine it and be fully conscious of what we are enacting. May I examine that high peak by directing your Lordships' notice to the following changes? To begin with, under Section 31 of the 1957 Solicitors Act the Council. before it could use the powers conferred by Schedule 1 in the form in which it ultimately appeared in the 1965 Act, had to have "reasonable cause to believe" that there had been dishonesty on the part of the solicitor. Only in that situation could the powers be exercised.

One significant change that is made is that the words "reasonable cause to believe" have been deleted, and the words "reason to suspect" have been substituted for them. If, therefore, the Council has reason to suspect dishonesty on the part of the solicitor it can, in terms of Schedule 1 of this Bill, by notice put into operation in relation to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to suspect dishonesty it can give notice, and then it can exercise among other powers the following:

"The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (whether or not the documents are the property of the solicitor or his firm), or relating to any controlled trust.

"If any person having possession or control of any such document fails to comply forthwith with any requirement made under this paragraph, he shall be guilty of an offence and he liable on summary conviction to a fine not exceeding £50."

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

It has to be considered against the words to which I have referred, "reason to suspect". When the phrase was "reasonable cause to believe", I assume that the requisite was in the first place that the Council should in fact have believed that there was dishonesty and, secondly, that it should have had reasonable grounds for so believing. "Reason to suspect" is far more restrictive. I should like to hear from the noble Lord whether he has formed a view about this. All that is requisite to bring into operation the words "reason to suspect" in the first place is that those responsible must think there is a likelihood, or perhaps just a possibility, of dishonesty and, secondly, they must have a reason for so thinking which must be respectable in the sense only that it is not bogus. It may fall far short of something that is reasonable in the sense that it might influence the judgment of ordinary reasonable people.

I said at the outset that I do not criticise these powers; I simply call the attention of the House to their drastic and far-reaching quality. In the very nature of things the Council must be able in the event of dishonesty, in order to protect the client or the beneficiary under a trust, to act at once and effectively before the funds in which the client or the beneficiary are concerned disappear. Speaking for myself, I entirely accept that in order to make this action effective at once, within the necessarily short period of time, it needs just precisely these powers which the Bill asks from your Lordships' House and I hope that your Lordships will think it right to grant these powers.

Lord Denning refers the Documents Production Procedure as being 'the drastic power;

5.37 p.m.

LORD DENNING

May I come to the next clause of the Bill which my noble friend Lord Stow Hill mentioned, and that is the drastic power for the Society to intervene when it has reason to suspect that the solicitor may have been guilty of dishonesty or, indeed, of not acting for the funds and the like. The previous provision required that the Council of the Society had a "reasonable cause to believe", and before they could act they had to have sufficient evidence in their hands to warrant a prosecution and to obtain a verdict of guilty. That did not enable them to act quickly enough, and the amended version reads that if they "have reason to suspect"—that is, good cause, good information in their hands whereby they feel the circumstances are so suspicious that steps must be taken to protect the clients and the public—then they can act. I would submit to your Lordships that that is a good practical amendment.

The first and only time the word ' draconian' is used to describe the Law Society powers under Schedule 1 is in the Parliamentary Debate on 6 February 1973 (Solicitors Bill, Solicitors Act 1974. Second Presentation) ,

LORD STOW HILL

.

The profession has voluntarily, under the terms of this Bill, submitted itself to a most draconian system of control. This is a system, set out in the Schedule, which is not designed to protect the profession but to protect those who may have recourse to it, in order to utilise its services against malpractice in the profession. We should be grateful to the profession for so willingly putting upon itself that heavy and effective system of control, and I hope that is a consideration which may be borne in mind when this Bill proceeds, as I hope after to-day it will, having received a Second Reading in your Lordships' House, to its further stages.

Lord Stow Hill' is not however is not however describing the effect of the 1974 Vesting Resolution as being draconian: he is referring to Lord Denning's summary of the Bill which his observations directly follow. Lord Denning highlights the new obligation to insure for negligence, the Disciplinary Committee's function in relation to the misconduct and the right of the victim of a dishonest solicitor to apply to the Compensation Fund.

Lord Denning makes no mention the Law Society's powers under the Schedule 1 Provisions and in particular the power to use the 1974 Vesting Resolution to deal with the problem

5.15 p.m.

LORD DENNING

My Lords, I beg to move that this Bill be now read a second time. The Bill is in very similar terms to that introduced in the last Session by my noble friend Lord Tangley who piloted it through with his usual skill and ability. It was endorsed by this House, but I am afraid it met an untimely death elsewhere. In introducing this Bill to-day and asking your Lordships to give it a Second Reading, I will not go through all the details once more because it is a collection of oddments, tidying up many matters which needed tidying up, and in a way it is not in good order because it is preparatory to a Consolidation Bill.

If I may, I will pick out the salient points and mention them this evening. The first is in respect of Clause 4. As Master of the Rolls, it is for me to determine the fee which is paid by every solicitor in order to be able to practice—for his practising certificate. Owing to inflation and the falling value of money, the limit which has been put on the fee hitherto is quite out of date. In 1965 there was power to increase the fee up to a maximum of £10. It has been increased to that sum, but it is very desirable that it should he increased further. The fee covers a multitude of activities which the Law Society undertake on behalf of the profession.

As your Lordships will realise, the number of those entering the profession, of those to be educated and taught their law, is increasing greatly. I may say that there are many young ladies entering the profession and they are very useful. The expenses on the education side are increasing greatly. Apart from that, on the professional purposes side the disciplinary committees need strengthening as complaints are made from time to time against individual solicitors. It is important that the profession should be able to expand if need be and not cut down its activities; and it is important that it should be possible for that to be done now. That is why I ask that the limit of £20 be removed and that, as Master of the Rolls, I may determine, with the concurrence of the noble and learned Lord, the Lord Chancellor, and the Lord Chief Justice what is a proper fee. Perhaps I may say that this is not such a burden to the profession as it might appear because, of course, the sum involved may be deducted for the purposes of taxation.

May I now turn to what is a new provision in the Bill. It is the provision whereby arrangements should be made requiring solicitors to insure against liability for negligence, and that proper provision should be made for insurance purposes. Dishonesty on the part of the solicitor is covered by another fund with which I shall deal later. Dishonesty is also dealt with by disciplinary proceedings, but negligence and liability for negligence is dealt with by the ordinary courts of law.

Unfortunately, in all professions people make mistakes, and the courts have to enforce liability for negligence. We have had of late in the courts a series of matters where, for instance, a widow, or an injured person who has suffered an accident and requires compensation, instructs solicitors to carry the case through, but the solicitors are so busy and so short staffed that it gets delayed. In quite a number of cases lately we have felt bound to strike out the actions because they have been so long delayed by the solicitors. So the unfortunate widow or the injured person has not a remedy against the employer or the negligent person. The complaint is really against the solicitor who delayed too long. That unfortunate person gets compensation from the solicitor in every case, I believe, but to cover it the solicitor must he insured against negligence. A large number do insure at the moment; but some do not. It ought to be the same in all professions. Barristers are now having to insure. The provision in Clause 7 is to enable the Law Society to insist as a condition of practising that the solicitor should be insured.

It is a matter of consideration for the moment as to what form the arrangements should take. It is suggested, on the one hand, that there should he an organisation within the Society itself, a kind of mutual insurance. Another suggestion is that there should be a block insurance whereby the Society, on behalf of all solicitors, insures with Lloyds, or one of the great companies. In any event, every solicitor should be insured with a proper company. Plans have not been worked out as to what is best, but what is proposed in Clause 7 is that power should be taken, and arrangements should be made, whereby liability for professional negligence—and that is the main object—should be covered by insurance.

I now turn to two other matters in the Bill in regard to the very rare cases when a solicitor has been guilty of dishonesty, or not keeping proper accounts, or of professional misconduct of some kind or other. To deal with cases of that kind we have at the moment the Disciplinary Committee. As Master of the Rolls, I appoint the members of that Disciplinary Committee. People at large think that that committee is just a committee of the Law Society. They think that the Law Society are prosecutors and judges in the same cause. They are quite wrong: it is a perfectly independent committee. As I say, the members are appointed by the Master of the Rolls. In the old days I used to appear before them, and a better and fairer tribunal I have never known. Now the proposal is that instead of being called a disciplinary committee it should be called a disciplinary tribunal so as to show that it is independent. Then, instead of the members being appointed just from the Council of the Law Society, which is a limited body of 60 or 70 solicitors, the Master of the Rolls should be able to select them from the whole body of solicitors, up to 15. Those provisions will, I hope, improve the tribunal in the eyes of the public at large. That is an important aspect of dealing with discipline.

The other aspect to which I would draw the attention of your Lordships is the Compensation Fund, available in cases—there are very few of them—where solicitors go off with the funds or are dishonest in some way. How is compensation to be afforded? This has always been a compensation fund: not an indemnity fund which has to cover everything in point of law, but a compensation fund in which the compensation is discretionary. That is built up by contributions which have been limited to £10 a head. One of the provisions of the Bill seeks to remove that limitation, again for the same reasons; that is, the differing values of money and to keep the fund solvent. We should have liked, and other people would like, it to be a real indemnity fund, but that cannot be done at present. There might be a claim for £1 million, which the fund could not meet. So while retaining its basis as a Compensation Fund, the first proposal I would put before your Lordships is to remove the limit of £10.

The other important matter on this Compensation Fund is one to which my noble and learned friend Lord Gardiner drew attention last time. He said: "The Law Society may refuse, without giving any rhyme or reason, to make compensation to a person who has lost money through a solicitor's dishonesty." He took the case of Mr. Hinds, who was charged in regard to the burglary at Maples. Mr. Hinds, in order to get defended, put a lot of money into the hands of a solicitor who made off with it, and Mr. Hinds was not defended properly. He never received compensation for the money which the solicitor had. My noble and learned friend Lord Gardiner said on the last occasion: "Reasons ought to be given, so that if compensation is not made the individual should know." After consideration, that is agreed to be the right thing, and in subsection (12) of Clause 11 provision is made for reasons to be given if an application for compensation is rejected. This is very proper. For instance, there was one case where someone wanted compensation because a stepmother had lent some money to her stepson, and it was a question whether it was really in the course of the practice or whether it was a private loan. So, I assure your Lordships that, if reasons are given, it is not only of value to the individuals refused but also, as I see it, to the courts. If the reasons given were unfounded, or if wrong considerations were taken into account or the right considerations were not taken into account, then the decision could he reviewed in a court of law. I hope that that amendment will achieve what my noble and learned friend Lord Gardiner sought.

My Lords, those are the main matters in this Bill, but there are two or three matters which my noble and learned friend the Lord Chancellor raised last time of interest to solicitors. Previously, in order to be a commissioner for oaths they had to pay a fee, and obtain all sorts of certificates, and so on, to qualify. As a small but useful provision, all solicitors will automatically in future be commissioners for oaths without having to go through all those formalities.

There are a number of other small matters. I ought to mention rather an interesting repeal. In the early Acts it was provided that it could be made compulsory for all solicitors to join the Law Society. I am told that that was proposed in 1939, the idea being that there could be a ballot of solicitors after the War to see whether or no more than two-thirds of them would want to make membership compulsory. Power

was taken in that respect in Section 75 of the principal Act. But that is completely out of date; no one has ever sought to enforce it, nor do they seek to enforce it now. As a tidying-up matter, it has been proposed amongst the various amendments that that Section 75 should be repealed.

Those are the main matters in this Bill. There are small matters such as the removing of disqualifications on aliens to become solicitors. As long as they pass the examinations they can now be admitted. Various other small tidying-up matters were before your Lordships during the last Session and were all endorsed. I hope for the sake of all concerned that they will be acceptable to your Lordships and also to Members of another place. My Lords, I beg to move.

Moved, That the Bill be now read 2ª.—(*Lord Denning.*)

5.31 p.m.

On 22 January 1974 (Solicitors Bill, Solicitors Act 1974. First Presentation) ,

Mr. Douglas Houghton

(Sowerby)

Clause 6 deals with the Law Society's powers of intervention in the affairs of solicitors, the compensation fund and so on. Those powers are fairly drastic. When the society has reason to suspect dishonesty by a solicitor, it can move in in a rather drastic fashion. Even in cases of complaint of undue delay, it will have powers under Schedule 1 to look into the affairs of the solicitor complained of.

I think that the main cause of complaint against solicitors is delay

From the Debates on the Administrative Justice Bill **Part 2A Page 288**

The Lord Chancellor

The issue here is again rather esoteric, but the point is that one ought to draw a distinction between the draconian powers of intervention in practice, which is possessed by the council, and the more general powers of discipline and process for incompetence or negligence. Of course, it will be necessary for the council to take appropriate disciplinary action through the committees established for the purpose following complaints or allegations of negligence or gross incompetence. That is not in dispute.

But the council also has the almost draconian powers of intervention in the practice and these are not intended for that purpose. The power is needed to intervene in a practice where there has been undue delay to recover documents so that the outstanding elements of a particular transaction can be completed. In such cases disciplinary action alone will not be enough. This is not the case where the complaint relates solely to incompetence or negligence.

I say again that the Law Society's analogous powers relate only to cases of undue delay and these have not proved insufficient for their purpose. The powers of intervention are deliberately restricted to cases of emergency. It would in my view be wrong to extend them more generally in the way envisaged. Accordingly, I hope my noble friend will accept this explanation as answering his main point.

In every single judgment , without exception, the Court has used the term 'draconian' to describe the entire Intervention and not the Law Society power to examine Documents.

ANAL SHEIKH V THE LAW SOCIETY [2005] (COURT OF APPEAL AND HOUSE OF LORDS) (GREGORY TREVERTON JONES KC, TIMOTHY DUTTON KC, HUGO PAGE KC. JONATHAN HARVIE KC, PHILIP ENGELMAN)

The Law Society's Powers to intervene in a solicitor's practice

The consequences of intervention were described by Mr Justice Sedley, sitting in this Court in *Giles v Law Society* (1995) 8 Admin LR 105, 118C, as "undoubtedly drastic and potentially terminal" for a solicitor's practice. Lord Justice Ward (*ibid*, 116E) referred to intervention as a "Draconian remedy" capable of striking "a mortal blow to the particular practice". But there can be no doubt that Parliament was well aware of the consequences which the exercise of intervention powers would be likely to have for the individual solicitor, both when it enacted the 1974 Act and when it reinforced those consequences in 1990.

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54. The competing arguments between the parties are as follows. Mr Engelman contends for the Claimant that these powers are illusory and that there is no realistic prospect of any satisfactory intervention being challenged. He submits also that the intervention power when exercised is so draconian that it destroys a practice and thereby irretrievably, intervenes in a person's right to enjoy his property. Third he submits that the suggestion that the intervention is an interim measure is an illusion. Mr Dutton Q.C. for LS submits that there is no illusion. The powers are admittedly draconian but they are a necessary power to remedy misconduct and the Claimant has a right to go to court to challenge it. He further submits that in cases where there is a challenge, a modus operandi is regularly negotiated between LS and the solicitor whereby continuity is preserved in limited ways and even in some cases the lifting of the suspension of the Practicing Certificate can be arranged. Mr Dutton Q. C. does not submit that any of those ameliorating exercises would have been agreed to by the LS in this case, and I do not suppose for one minute that it would even if it had been asked.

OBSERVATIONS ON THE POWERS

55. It is clear that the purpose of the powers of intervention are to enable LS to nip in the bud so far as possible cases of dishonesty by a solicitor (*Buckley v The Law Society* (2) [1984] 3 All ER 317atpage317). There is no dispute that the power is draconian. The Court of Appeal in *Giles v The Law Society* (11-10-95) observed :-

"Intervention is of course, a draconian remedy, not only because it often strikes a mortal blow to the particular practice, but also, because by an amendment made by the Courts and Legal Services Act 1990, the solicitor loses his Practicing Certificate immediately. Protection of the public therefore has to be held in balance against hardship[to that solicitor. That balance is primarily held by Parliament."
The learned judge then sets out the procedural balancing exercise.

65. What is the supposed justification for that drastic action. It is said to be necessary to protect the public from dishonest solicitors. That is self-evidently a laudable exercise, but should it be such that it can only happen in such a draconian manner. Is there some other way of procedure which might afford fairness, whilst

still protecting the LS, the SCF and the clients from dishonesty? Further, the procedure involves the LS investigating, "prosecuting" and "adjudicating" in private.

68. The effect of an intervention is admittedly draconian. It seems to me that the effect of the intervention would, in reality, render it at the very least, difficult, if not impossible, for a solicitor to collect outstanding fees and, more importantly, work in progress. In respect of the latter there are undoubtedly cases where solicitors work on an entire fee basis. Conveyancing transactions, for example, are regularly carried out on such a basis. Commercial or business transactions are similarly carried out on the basis of a fee quoted for doing a particular job. The result of an intervention will prevent the solicitor from carrying on the contract. It means that the solicitor will have discharged himself with the result that the solicitor will no longer be able to carry out the duties. He will thus lose his entitlement to a fee and, according to well known principles of entire contracts, would not be able to claim a quantum meruit.

HOLDER V THE LAW SOCIETY [2002] (CA) TIMOTHY DUTTON QC, NICHOLAS PEACOCK , PHILIP ENGELMAN AND ROGER PEZZANI

23. The nature and characteristics of the intervention jurisdiction have been discussed in a number of cases, starting with *Buckley v Law Society (No.2)* [1984] 3 All ER 313 (Sir Robert Megarry V-C), and most recently in this Court, in *Giles v Law Society* [1995] 8 Admin LR 105. It has been recognised that it is a "draconian" jurisdiction, necessary to protect the public interest, but balanced by the right to apply to the Court. As Sedley LJ said in *Giles*:

"The manifest purpose of sch 1 to the Solicitors Act 1974… is to create an ex-parte procedure leading where appropriate to intervention, the consequences of which are undoubtedly drastic and potentially terminal for a solicitor's practice. Where an intervention is persisted with, paragraph 6(4) of sch 1 provides for a solicitor to be heard on an application made within 8 days to the court for an order directing the Law Society to withdraw the notice prohibiting payment out of money held by solicitors save with the leave of the court. Since this is the key intervention power, at least in cases of suspected dishonesty, it is realistic to describe the sub-paragraph as conferring jurisdiction upon the court to direct the Law Society to withdraw from the intervention. On such an application it is for the court to decide whether or not to direct withdrawal on the then material before it….

… it is by common consent a matter for the court's judgment (I prefer not to use the word discretion in this context) whether it should direct withdrawal – a

24. More recently, Judge Behrens in *Wright v Law Society* (see above) declined to follow the reasoning of Peter Smith J. He said:

"The Law Society has to take into account the public interest in deciding whether to exercise its powers of intervention at all. The public interest requires a balance to be struck between the draconian effect of intervention and the matters referred to earlier in this judgment. Second I have considerable doubts about the jurisdiction of the Court to adopt the sort of solution envisaged by Peter Smith J in paragraphs 70 and 71 of his judgment. Intervention in its full form is the statutory remedy entrusted by Parliament to The Law Society in order to regulate the profession. It is not, in view, open to the courts to devise a different and less draconian remedy. I cannot, for my part, see that the Court would have power to appoint a Receiver in an application by The Law Society to determine whether there ought to be an intervention or not.

37. The nature and characteristics of the intervention jurisdiction have been discussed in a number of cases, starting with *Buckley v Law Society (No.2)* [1984] 3 All ER 313 (Sir Robert Megarry V-C), and most recently in this Court, in *Giles v Law Society* [1995] 8 Admin LR 105. It has been recognised that it is a "draconian" jurisdiction, necessary to protect the public interest, but balanced by the right to apply to the Court. As Sedley LJ said in *Giles*:

"The manifest purpose of sch 1 to the Solicitors Act 1974… is to create an ex-parte

Later in his judgment he expanded on what he saw as the "draconian" features of the intervention power:

"68. The effect of an intervention is admittedly draconian. It seems to me that the effect of the intervention would, in reality, render it at the very least, difficult, if not impossible, for a solicitor to collect outstanding fees and, more importantly, work in progress. In respect of the latter there are undoubtedly cases where solicitors work on an entire fee basis. Conveyancing transactions, for example, are regularly carried out on such a basis. Commercial or business transactions are similarly carried out on the basis of a fee quoted for doing a particular job. The result of an intervention will prevent the solicitor from carrying on the contract. It means that the solicitor will have discharged himself with the result that the solicitor will no longer be able to carry out the duties. He will thus lose his entitlement to a fee and, according to well known principles of entire contracts, would not be able to claim a quantum meruit.

69. As a matter of practicality it seems to me that the Claimant's evidence as to the difficulties of collection are made out. Whilst Mr Dutton Q.C. said the LS will afford documents, or rather copies of documents, to enable collections to be made, I can well foresee (and this has been my experience in the interventions where I have been involved) that the destruction of the practice causes the clients to be scattered to the winds and the recoverability of monies made virtually impossible."

38. More recently, Judge Behrens in *Wright v Law Society* (see above) declined to follow the reasoning of Peter Smith J. He said:

"The Law Society has to take into account the public interest in deciding whether to exercise its powers of intervention at all. The public interest requires a balance to be struck between the draconian effect of intervention and the matters referred to earlier in this judgment. Second I have considerable doubts about the jurisdiction of the Court to adopt the sort of solution envisaged by Peter Smith J in paragraphs 70 and 71 of his judgment. Intervention in its full form is the statutory remedy entrusted by Parliament to The Law Society in order to regulate the profession. It is not, in view, open to the courts to devise a different and less draconian remedy. I cannot, for my part, see that the Court would have power to appoint a Receiver in an application by The Law Society to determine whether there ought to be an intervention or not.

He submitted that if, as the judge found, the more draconian features of the intervention procedure were not "necessary", the requirement of "proportionality" was not satisfied.

39. In the present case, the "margin" arises at two stages: first, the discretion allowed to the legislature in establishing the statutory regime, and, secondly, the discretion of the Law Society as the body entrusted with the decision in an individual case. (In the former case, the only remedy for exceeding the "margin" may be a "declaration of incompatibility" under the 1998 Act.) The intervention procedure, now contained in the Solicitors Act 1974, is long-established (dating back to 1941, in its earliest form),

and has been reviewed by the court on many occasions. As appears from the cases to which I have referred, it has been recognised as "draconian" in some respects, but necessary for the protection of the public interest; and the courts have repeatedly emphasised the "balancing exercise" which it involves. I see no material difference between this and the "fair balance" which Article 1 requires. Nor do I see any reason why the Human Rights Act 1998 should be thought to have changed anything. There has long been a right of individual petition to the Strasbourg Court for breaches of the Convention, but we have not been referred to any questioning of the intervention procedure under Article 1. I see no arguable grounds for thinking that the margin allowed to the legislature has been crossed, particularly having regard to the deference which is properly paid to an Act of Parliament, as compared to an administrative decision (see the *Roth* case, above, at paras 26, 83).

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5. It is obvious, and well recognised in the authorities, that these intervention powers are draconian. Their effect, when exercised, is to destroy the business by which the solicitor has hitherto made his living, to render unemployed its employees, and to deprive its clients of access to the services for which they have retained the firm. The protection of these various interests afforded by the legislation is provided by paragraph 6(4) and (5) and paragraph 9(8), (9) and (11). Paragraph 6(4) allows the solicitor to apply to the court for an order that the Society should withdraw the notice in relation to client monies, and such an order if made, allows the court "to make such other order with respect to the matter as it may think fit" (see paragraph 6(5)). There is similar, but not identical, provision under paragraph 9. The solicitor may apply under paragraph 9(8) to the court for an order directing the Society to deliver up the documents "to such person as the applicant may require" and, on such an application, the court "may make such order as it thinks fit" (see paragraph 9(11).

SRITHARAN AND ANR V THE LAW SOCIETY [2004] (HC) MANJIT GILL KC, KENNETH HAMER KC

20. The origin of the provision in paragraph 1(1)(a) of schedule 1 to the 1974 Act - formerly enacted as section 31(1) of the Solicitors Act 1957 and re-enacted in the 1974 Act on consolidation - is found in paragraph 4(1) of the First Schedule to the Solicitors Act 1941. The power to intervene on reasonable suspicion may be seen as draconian; but it is clear from the 1941 Act that that power was thought to be a necessary incident of the requirement – imposed on the Law Society by section 2 of that Act – that a Compensation Fund be established, maintained and administered "for enabling the Society to make grants thereout . . . for the purpose of relieving or mitigating losses sustained by any person in consequence of dishonesty on the part of any solicitor or any clerk or servant of any solicitor in connection with any such solicitor's practice as a solicitor . . ."

NEUMANS LLP V THE LAW SOCIETY [2017] RADCLIFFES

30. The decided cases also provide authority for the following propositions:

i) The intervention procedure laid down in the 1974 and 1985 Acts is compatible with article 6 of the European Convention on Human Rights and article 1 of the First Protocol to that Convention. In *Holder v Law Society* [2003] EWCA Civ 39, [2003] 1 WLR 1059, Carnwath LJ explained (at paragraph 31):
"The intervention procedure, now contained in the Solicitors Act 1974, is long-established (dating back to 1941, in its earliest form), and has been reviewed by the court on many occasions. As appears from the cases to which I have referred, it has been recognised as 'draconian' in some respects, but necessary for the protection of the public interest; and the courts have repeatedly emphasised the 'balancing

> exercise' which it involves. I see no material difference between this and the 'fair balance' which article 1 [of the First Protocol] requires. Nor do I see any reason why the Human Rights Act 1998 should be thought to have changed anything. There has long been a right of individual petition to the Strasbourg court for breaches of the Convention, but we have not been referred to any questioning of the intervention procedure under article 1. I see no arguable grounds for thinking that the margin allowed to the legislature has been crossed, particularly having regard to the deference which is properly paid to an Act of Parliament, as compared to an administrative decision: see *International Transport Roth GmbH v Secretary of State for the Home Department* [2003] QB 728, 746, 765, paras 26, 83";

122. The procedure for intervention, as a whole, was fair. Why does the Judiciary describe it as being draconian?

123. Has the Judiciary made the misstatement carelessly or deliberately?

T	**ACCORDING TO PARLIAMENT 'REASON TO SUSPECT' DISHONESTY WAS MERELY A TRIGGER TO START THE INTERVENTION PROCEDURE; ACCORDING TO THE JUDICIARY REASON TO SUSPECT DISHONESTY IS THE CHARGE AGAINST THE SOLICITOR. HOW IS IT POSSIBLE THAT THE JUDICIARY'S INTERPRETATION OF SCHEDULE 1 COULD HAVE BEEN BASED ON SUCH AN OBVIOUS GRAMMATICAL AND SYNTACTICAL ERROR?**

1	**ANALYSIS**

1) 'REASONABLE CAUSE TO BELIEVE' CHANGED TO 'REASON TO SUSPECT'

a) THE REASON FOR THE CHANGE OF WORDING

Under the Acts of 1941, 1957 and 1965, the Law Society's Intervention Powers could be exercised (by which it is meant that the Law Society could start the Document Production Procedure, which was the first stage of the Intervention) under Ground 1 (Dishonesty by Solicitor or Ors) if the Council had 'reasonable cause to believe' that the Solicitor had been dishonest.

In the 1974 Act, 'reasonable cause to believe' was changed to 'reason to suspect' and the Satisfaction of Guilt Requirement was removed.

Parliament's reason for the amendment was simply to enable the Law Society to invoke its powers more promptly in the face of increasing complaints from the public. That is all. The Satisfaction of Guilt Requirement for the Statutory Freezing Order Application was also removed for the same reason.

> **First Presentation of the Bill**
>
> 2 March 1972
>
> LORD STOW HILL
>
> One significant change that is made is that the words "reasonable cause to believe" have been deleted, and the words "reason to suspect" have been substituted for them. If, therefore, the Council has reason to suspect dishonesty on the part of the solicitor it can, in terms of Schedule 1 of this Bill, by notice put into operation in relation to that solicitor the full powers which are contained in Schedule 1 of this Bill.

I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to that solicitor the full powers which are contained in Schedule 1 of this Bill. I think it might not be unnecessarily trespassing on your Lordships' time if I quote from paragraph 3 of Schedule 1 in order to indicate what can be done by the Council of the Law Society if that notice has been given; in other words, if the Council has reason to suspect dishonesty it can give notice, and then it can exercise among other powers the following:

"The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (whether or not the documents are the property of the solicitor or his firm), or relating to any controlled trust.

"If any person having possession or control of any such document fails to comply forthwith with any requirement made under this paragraph, he shall be guilty of an offence and he liable on summary conviction to a fine not exceeding £50."

That means that if the Council has reason to suspect—not certainty; simply reason to suspect—it can give notice and it can then require documents to be delivered at any time and place to themselves or any person they may indicate as recipient of the documents, whether the documents belong to the solicitor or to somebody else; and anybody who fails to comply forthwith, excuse or no excuse, can be subject to criminal process and fined up to £50. That is the power.

It has to be considered against the words to which I have referred, "reason to suspect". When the phrase was "reasonable cause to believe", I assume that the requisite was in the first place that the Council should in fact have believed that there was dishonesty and, secondly, that it should have had reasonable grounds for so believing. "Reason to suspect" is far more restrictive. I should like to hear from the noble Lord whether he has formed a view about this. All that is requisite to bring into operation the words "reason to suspect" in the first place is that those responsible must think there is a likelihood, or perhaps just a possibility, of dishonesty and, secondly, they must have a reason for so thinking which must be respectable in the sense only that it is not bogus. It may fall far short of something that is reasonable in the sense that it might influence the judgment of ordinary reasonable people.

I said at the outset that I do not criticise these powers; I simply call the attention of the House to their drastic and far-reaching quality. In the very nature of things the Council must be able in the event of dishonesty, in order to protect the client or the beneficiary under a trust, to act at once and effectively before the funds in which the client or the beneficiary are concerned disappear. Speaking for myself, I entirely accept that in order to make this action effective at once, within the necessarily short period of time, it needs just precisely these powers which the Bill asks from your Lordships' House and I hope that your Lordships will think it right to grant these powers.

LORD DENNING

May I come to the next clause of the Bill which my noble friend Lord Stow Hill mentioned, and that is the drastic power for the Society to intervene when it has reason to suspect that the solicitor may have been guilty of dishonesty or, indeed, of not acting for the funds and the like. The previous provision required that the Council of the Society had a "reasonable cause to believe", and before they could act they had to have sufficient evidence in their hands to warrant a prosecution and to obtain a verdict of guilty. That did not enable them to act quickly enough, and the amended version reads that if they "have reason to suspect"—that is, good cause, good information in their hands whereby they feel the circumstances are so suspicious that steps must be taken to protect the clients and the public—then they can act. I would submit to your Lordships that that is a good practical amendment.

Lord Denning believes that the change enables speedy action

Third Presentation of the Bill

22 January 1974

Mr Douglas Houghton (Sowerby).

Clause 6 deals with the Law Society's powers of intervention in the affairs of solicitors, the compensation fund and so on. Those powers are fairly drastic. When the society has reason to suspect dishonesty by a solicitor, it can move in in a rather drastic fashion. Even in cases of complaint of undue delay, it will have powers under Schedule 1 to look into the affairs of the solicitor complained of.

Having obtained the Solicitor's Documents under the Document Production Procedure and examined them, the Law Society could find that its previously held suspicion of dishonesty was dispelled and could halt the Intervention Procedure, or it could proceed to the Full Intervention, in which case the Law Society would make the following applications:

1) The Para 9 (4) Documents Production (Final) Order Application
2) The Para 5(1) Statutory Freezing Order Application
3) The Para 10 (1) Mail Redirection Order Application

b) THE LAW SOCIETY WITHHOLDS FROM PARLIAMENT THAT 'REASON TO SUSPECT' MADE NO SENSE AFTER THE ENACTMENT OF S44B

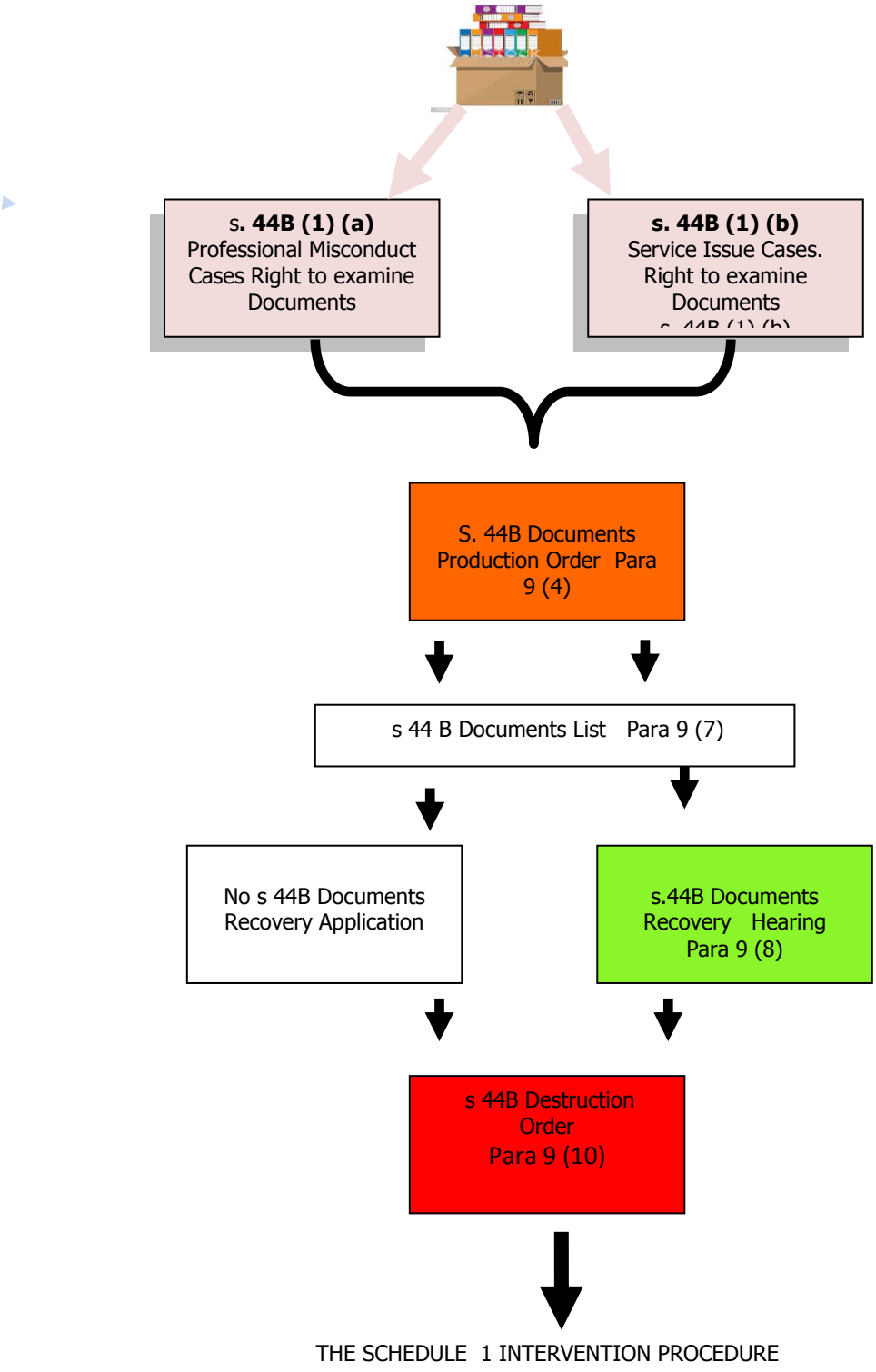
In 1991, the Solicitors Act 1974 was amended by the Administration of Justice Act 1985 to include s.44B (below) which gave the Law Society the right to examine the Solicitor's Documents without having to invoke its Intervention Powers.

The Diagram at **Page 230** shows the change effected in the Intervention Procedure following the introduction of s.44B.

The introduction of s44B should have led to an amendment of the wording of Para 1 (1) (a) of Schedule 1 to reflect that in Ground 1 (Dishonesty by Solicitor or Ors) the Law Society could now be certain about whether the circumstances had arisen. It no longer made sense that, having examined the Solicitor's files, the Law Society should still only have to have

As shown in the Table at **Page 231-232**, it was not only in Ground 1 that the Intervention Ground was made a subjective test in the 1974 Act. It was the same in the case of the other Grounds.

THE SOLICITORS ACT 1965 INTERVENTION PROCEDURE AS AT 2005



1965 ACT GROUND	TEST	1974 ACT GROUND	TEST
Ground 1 Solicitor's Dishonesty	Council has reasonable cause to believe	Ground 1 Solicitor's Dishonesty	Council has reason to suspect
Ground 6 PR's dishonesty	Council has reasonable cause to believe	Ground 1 PR's Dishonesty	Council has reason to suspect
Ground 5 PRs Undue Delay	Council has reasonable cause to believe	Ground 2 PRs Undue Delay	Council considers
		Ground 3 Rules breach	Council is satisfied
Ground 4 Bankruptcy	Council have reasonable cause to believe	Ground 4 Bankruptcy	Whether there was undue delay and risk to money no longer a consideration. Now based on simple fact, not on belief or opinion
		Ground 5 Prison	Based on fact, not on belief or opinion
Ground 4 Mental Health Act	Council have reasonable cause to believe	Ground 6 Mental Health Act	Whether there was undue delay and risk to money no longer a consideration. Now based on simple fact, not on belief or opinion
Ground 2 Struck off	Council satisfied about arrangements	Ground 7 Struck off	Whether arrangements had been made was no longer a consideration. Now based on simple fact of having been struck off, not on belief or opinion
Ground 3 Undue Delay	Council's regards Solicitor's explanation as unsatisfactory	Ground 8 Undue Delay	Council regards Solicitor's explanation as unsatisfactory
Ground 7 Deceased solicitor subject to provisions			

c) REASON TO SUSPECT' WORDING RETAINED TO CREATE BOGUS TWO STAGE PROCESS WHICH GUARANTEES THAT EVERY INTERVENTION CHALLENGE WILL FAIL

i) WHAT IS THE TWO STAGE PROCESS AND WHY IT MEANS THAT THE SOLICITOR CAN NEVER WIN

The Court considers that it has to decide the Solicitor's intervention challenge by adopting the Two Stage Process

25. The Court itself conducts "a two-stage process". Its role was summarised by Neuberger J (*Dooley v Law Society* 15.9.2000):

"First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily, whether there are grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues.

Holder v The Law Society (2002) CA

16. As I pointed out in *Sritharan v Law Society* [2005] EWCA Civ 476, [17] and [18]; [2005] 1 WLR 2708, 2714*A-D*, the origin of the power to intervene on reasonable suspicion is found in paragraph 4(1) of schedule I to the Solicitors Act 1941. It is clear that the power was thought to be a necessary adjunct to the requirement, imposed on the Law Society by section 2 of that Act, that a compensation fund be maintained and administered for the purpose of enabling the Society to compensate persons who had suffered loss by reason of the dishonesty of its members. I observed that it was important not to lose sight of that link:

". . . It is the power to intervene on suspicion of dishonesty which enables the society to exercise control over those solicitors whose conduct might give rise to claims against the compensation fund; claims which, ultimately, have to be met by the profession as a whole."

Sheikh v Law Society Court of Appeal

Note. 1. In the 1957 Act ,the 1965 Act and, the 1974 Act it was not true that risk to the CF was the exclusive purpose of the power

In *Sheikh v Law Society*, on the other hand, Chadwick LJ said this (at paragraph 92):

"I should add (by way of parenthesis) that, for my part, I confess to some doubt whether, as Sedley J suggested in *Giles v Law Society*, the court could refuse to direct withdrawal of a notice which 'ought not to have been issued' because the original evidence prompting the intervention 'was too exiguous to found a reasonable suspicion' on the basis that abundant evidence of dishonesty had been found on intervention—if he intended to include in that example a case where, on a proper analysis of the position at the time the decision to intervene was taken by the society, the powers of intervention had not become exercisable. As Sir Robert Megarry V-C observed in *Buckley v Law Society* (*No 2*) [1984] 3 All ER 313 at 316, [1984] 1 WLR 1101 at 1105: 'the Law Society ought not to be free to intervene on inadequate grounds in the hope that what will be found will justify the intervention.' But I recognise that the Vice-Chancellor clearly took the view in that case that it would be open to the court to refuse to direct withdrawal notwithstanding that, on the facts known to the society at the time of the resolution, there was insufficient reason to suspect dishonesty. He said this, by way of example ([1984] 3 All ER 313 at 316, [1984] 1 WLR 1101 at 1105):

Note 2 The Court can rely on subsequent events

Neumans LLP v The Law Society [2017]

The Two Stage Process involves the Court considering:

1) whether the Law Society had reason to suspect the Solicitor of dishonesty ('The Two Stage Process Stage 1')

2) if so, whether the intervention should continue ('The Two Stage Process Stage 2') (It is significant that the court does not say the intervention should be reversed')

Under the Two Stage Process, whether or not the Solicitor is actually guilty of dishonesty is completely immaterial.

ii) TWO STAGE PROCESS IS BASED ON TWO SEMANTIC MISCHIEFS

1) 'REASON TO SUSPECT'

There are two semantic mischiefs in the Two Stage Process. One is the way in which ' reason to suspect' is interpreted.

As Lord Stow Hill says, the meaning is that, as soon as the Law Society has reason to suspect the Solicitor of dishonesty, it can start the Intervention Procedure which, prior to the enactment of s.44B, meant making the Para 9 (4) Documents Production Order with the aim of proving that the Solicitor had actually been dishonest ; if there was proof of the fact, the Law Society could proceed to a Full Intervention. The Intervention is analogous to a criminal prosecution in which the Law Society's Resolution to Intervene is the analogue of the Crown Prosecution's decision to charge the Accused, and the Law Society's Claim Form made in any one or more of its Substantive Applications (namely under Para 5 (1) (the Statutory Freezing Order Application) , under Para 9 (4) (the Documents Production (Final) Order Application) or under Para 10 (1) (the Mail Redelivery Order Application)) is the analogue of Charge Sheet or Indictment.

However, according to the Court, Ground 1 does not mean that the Law Society's suspicion operates as a mere trigger to start the Intervention Procedure: according to the Court the **reason to suspect dishonesty is the offence**. The change of wording from 'reasonable cause to believe' means that there is no longer any requirement for the reason held to be reasonable. Therefore to win his Intervention challenge, the Solicitor would have to prove, not that there is no objective reason to suspect him of dishonesty but, that the Law Society did not have a reason (for which he would need to be endowed with telepathic powers).

The mischief is more conspicuous in the other Grounds. The following table compares the wording of the test for the Intervention Ground under the 1965 and 1974 Acts, showing where the test is subjective (marked red), and where it is objective.

1965 ACT GROUND	TEST	1974 ACT GROUND	TEST

Ground 1 Solicitor's Dishonesty	Council has reasonable cause to believe	Ground 1 Solicitor's Dishonesty	Council has reason to suspect
Ground 6 PR's dishonesty	Council has reasonable cause to believe	Ground 1 PR's Dishonesty	Council has reason to suspect
Ground 5 PRs Undue Delay	Council has reasonable cause to believe	Ground 2 PRs Undue Delay	Council considers
		Ground 3 Rules breach	Council is satisfied
Ground 4 Bankruptcy	Council have reasonable cause to believe	Ground 4 Bankruptcy	Whether there was undue delay and risk to money no longer a consideration. Now based on simple fact, not on belief or opinion
		Ground 5 Prison	Based on fact, not on belief or opinion
Ground 4 Mental Health Act	Council have reasonable cause to believe	Ground 6 Mental Health Act	Whether there was undue delay and risk to money no longer a consideration. Now based on simple fact, not on belief or opinion
Ground 2 Struck off	Council satisfied about arrangements	Ground 7 Struck off	Whether arrangements had been made was no longer a consideration. Now based on simple fact of having been struck off, not on belief or opinion
Ground 3 Undue Delay	Council's regards Solicitor's explanation as unsatisfactory	Ground 8 Undue Delay	Council regards Solicitor's explanation as unsatisfactory
Ground 7 Deceased solicitor subject to provisions			

The Table which follows shows the application of the Two Stage Process (Stage 1) in relation to each of the Grounds.

THE GROUND	THE WORDING OF THE GROUND	THE ISSUE THE COURT SHOULD CONSIDER	THE ISSUE THE COURT CONSIDERS
Ground 1 Solicitor's Dishonesty	Council has reason to suspect	Is the Solicitor or the Personal Representative guilty of dishonesty	Whether the Council has reasons to suspect the Solicitor or Personal Representative of dishonesty
Ground 1 PR's Dishonesty	Council has reason to suspect		
Ground 2 PRs Undue Delay	Council considers	Is the Personal Representative guilty of undue delay	Whether the Council considers that the Personal Representative are guilty of

			undue delay
Ground 3 Account Rules Breach	Council is satisfied	Did the Solicitor breach the Account Rules	Whether the Council is satisfied that the Solicitor had breached the Account Rules
Ground 8 Undue Delay	Council regards Solicitor's explanation as unsatisfactory		

The problem is highlighted in Ground 3 (Account Rule Breach) . Whether or not the Solicitor's Account Rules have been breached is matter of indisputable fact, not of belief or opinion. A Solicitor has, or has not, breached the Account Rules. There can be no doubt or ambiguity, but what if the Council were absolutely satisfied that the Solicitor had breached the Solicitor's Account Rules (as was the case in the Round Sum Transfer Allegation below), but they did not rightly understand the Rules ?

2) 'INTERVENTION'

The second mischief is in ambiguity of the term 'intervention'; and it is far from certain what Parliament understood by the term

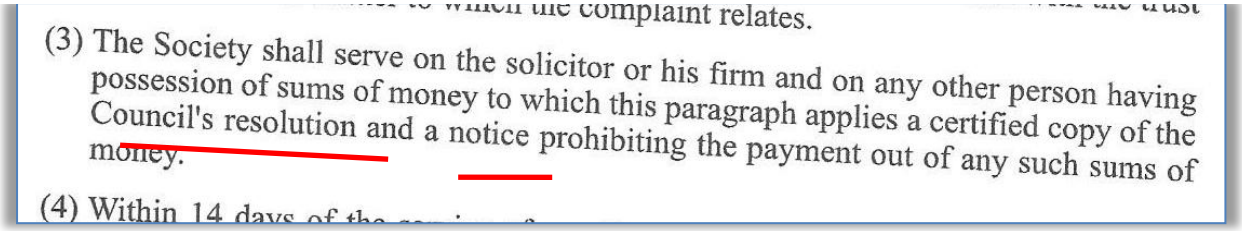
An Intervention is not a single act; it is a process starting with the Substantives Procedures, and concluding with the Non Substantive Procedures ; the position concerning Later Discovered Vesting Resolution Money means that an Intervention can be said never to conclude.

The Court's approach in many respects shows that it wrongly views the Intervention to be a single act which starts and ends with the service of the Vesting Resolution.

Two aspects are particularly relevant:

1. The fact that the Two Stage Process Stage 2 is referred to as being concerned with the 'continuation' of the Intervention shows that the Court treats the Intervention as already having taken effect which is plainly not the case. The Two Stage Process is applied at the Para 6(4) Withdrawal Hearing , but all that will have happened at that stage is that the Vesting Resolution will have been served and the Solicitor's Bank Accounts will be 'frozen'. The Court will not yet have made any Order directing the transfer of Money, the delivery up of Documents or the redirection of Mail, so Vesting Resolution Money will still be in the Solicitor's Account, the Solicitor will still be in possession of his Documents and will still be receiving his Mail.

2. The fact that the Wrong (Para 6(3)) Application and the Wrong (Para 9 (8)) Application is made



(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the

Para 6 (3) provides for service of documents upon

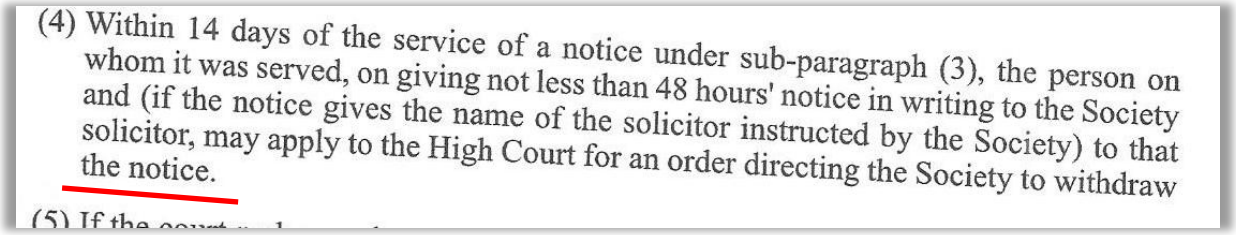
3) The Solicitor or his firm

4) Any other person in possession to which the Vesting Resolution applies (the Para 6 (3) Third Parties)

The documents which have to be served are :

3) A certified copy of the Vesting Resolution, and

4) Notice to the Part 6(3) Third Parties Prohibiting Payment Out



(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court

Para 6 (4) provides that the parties served, namely the Solicitor, his Firm and the Part 6 (3) Third Parties can make the Para 6(4) Withdrawal Application in relation to the **Notice Prohibiting Payment Out**

The Para 6(4) Withdrawal Application does not provide for the withdrawal of the Vesting Resolution

Under the Law Society's Fraudulent Intervention Procedure, the Para 6 (4) Application made in proceedings is made

'for the withdrawal of the Vesting Resolution'.

The fact that the Court believes that it is the Vesting Resolution which is withdrawn and not the Notice Prohibiting Payout Out (and have wrongly adjudged cases on that basis for nearly the last 50 years) shows that it treats the Vesting Resolution as a significant instrument which needs to be set aside, when all it is a type of company resolution or a letter.

3) THE COMBINED EFFECT OF 'REASON TO SUSPECT' AND 'INTERVENTION'

If

1. the offence is not that the Solicitor is dishonest, but that the Law Society has reason to suspect that the Solicitor is dishonest, and

2. Intervention is a single act

the combined effect of these two propositions is that

1) The intervention (by which it is meant the freezing and transfer of the Solicitor's Banked Money, the production of the Solicitor's Documents, the redirection of the Solicitor's Mail) takes place at the very moment of the formulation of the thought ('the Thought') in the mind of the Panel i.e. when the Panel has reason to suspect dishonesty;

2) The mere thought of a group of Solicitors (or one 70 year old Solicitor , namely Charles Sneary in the Sheikh 2005 Intervention), who comprise the Panel, has as much power and authority as a High Court Order;

3) The mere thought of a group of Solicitors (or a single Solicitor) in England and Wales has more power than the actual power of the most powerful nations on Earth. (The US Government cannot transfer the frozen bank accounts of sanctioned Russian Oligarchs, the Taliban or other international terrorists to the US Treasury without judicial authority, but the Law Society can have the Solicitor's Banked Money transferred to Russell Cooke LLP as soon as the Council formulates the Thought, has the Thought typed up in the form of the Vesting Resolution and faxes the Vesting Resolution recording the Thought to the Solicitor's Banks)

4) The Two Stage Process Stage 1 means that the Court's function is to decide whether the group of Solicitors (or a single Solicitor) had the Thought. Under Para 6 (4) Application the burden is not on the Law Society to prove that it had the Thought: the burden is on the Solicitor to prove that the Law Society did not have the Thought which is impossible. Therefore the Intervention can never be successfully challenged - at least not in normal circumstances.

5) If, with the help of a telepathist, the Solicitor succeeds in showing that the Law Society did not have the Thought, his challenge still cannot succeed because

   a) the intervention as a single act was completed simultaneously with the Thought and the service of the Vesting Resolution recording the Thought, which also take place simultaneously with each other, and

   b) as the Court's function under the Two Stage Process Stage 2 is not to decide whether decide whether the completed intervention should be reversed, but whether the intervention should continue

   any successful Intervention challenge can only be theoretical.

   Logically, what must happen in the case of a theoretical win is that

i) the Law Society must continue to retain the Solicitor's Banked Money (notwithstanding that the Court has found that the Intervention should not continue) : the Law Society cannot be ordered to return the Money to the Solicitor because the Two Stage Process Stage 2 does not provide for the Court to find that the Intervention should be reversed. However, while the Law Society continues to hold onto the Money , it cannot deal with the Money (because under the Two Stage Process Stage 2 the Court has ordered that the Intervention should not continue)

ii) ditto, the Solicitor's Documents

iii) ditto, the Solicitor's Mail

(Under Para 6(5) and Para 7(9) the Court can make any order, but the order must be made consistently with the Two Stage Process, so these provisions do not help)

6) The Intervention is final and irreversible.

7) The only win a Solicitor can have is theoretical win and that is only with the use of supernatural powers.

2 QUESTIONS FOR THE LEGISLATURE, THE JUDICIARY, THE EXECUTIVE , THE GOVERNMENT AND THE ATTORNEY GENERAL

1) HAS THE JUDICIARY MISCONSTRUED AND MISPPLIED THE MEANING OF 'REASON TO SUSPECT'

124. Will the Judiciary accept that it has misunderstood the meaning of 'reason to suspect' ?

2) DID THE LAW SOCIETY AND THE JUDICIARY'S DEVISE THE TWO STAGE PROCESS TO PROTECT THE INTERVENTION FRAUD BY ENSURING THAT FRAUDULENT INTERVENTIONS COULD NEVER BE SUCCESSFULLY CHALLENGED?

125. From the above discussion and the following, it is impossible for the Solicitor to ever successfully challenge an intervention when it is undertaken under the Law Society's Fraudulent Procedure if the Judiciary applies the Two Stage Process. Did the Law Society and Judiciary plan and provide for that outcome?

3) DOES THE TWO STAGE PROCESS MEAN THAT THE PRINCIPLE OF CERTAINTY IN ACCOUNTING PRACTICE DOES NOT APPLY: THE ROUND SUM TRANSFER ALLEGATION.

The Round Sum Transfer Rule is extremely straightforward : it means that a solicitor must send a bill or notification to a client before transferring costs. It follows that it is extremely easily to prove when the rule is breached.

First, the costs ledger should be inspected to show the date of the costs transfer. Then, the file should be examined to verify the date on which the bill was sent to the client.

It is impossible for a investigator to make the allegations and fail to prove it : the bill either has, or has not, been sent to the client.

At trial, the Law Society's main witness , the senior forensic accountant David Shaw, did fail to prove the allegation:

19 Are you able to point His Lordship to any example of
20 a round sum transfer where a bill had not been issued?
21 A. No, I do not have that information.

It transpired at the SDT Trial that Shaw never knew what a Round Sum Transfer meant : he thought a Round Sum Transfer was a transfer of money which ended with a zero:

MISS WEEKES: Can I just deal with why is the £58,000 Mr Shaw a round-sum transfer? [Inaudible], bill in existence and you know where the money has come from?
MR SHAW: Well, it is a round-sum transfer, isn't it because it is a round-sum.
MISS WEEKES: No, I would like some advice[?], please. Can you help me if you just say it is a round-sum. Is that why it is a round-sum transfer, it is a round-sum?
MR SHAW: Well, it is a round-sum, yes.
MISS WEEKES: Is that your definition of a round-sum transfer?
MR SHAW: I am not sure I actually have a particular definition, if that's what we are moving on to, but I mean clearly if it's £20,000, it's a round-sum.
MISS WEEKES: And that's what you mean by a round-sum transfer, it's a round-sum, so if I gave you £50, £60-
MR SHAW: You would mean all sorts of things by a round-sum transfer, couldn't you?
MISS WEEKES: I know, that's the problem Mr Shaw. Different means different things, but it might help us to understand how you approach this as an investigator. You saw £58,000, it left the [inaudible] that's a round-sum transfer because it is a round-sum, correct?
MR SHAW: Well, yes.

He then went onto say that he had never said that there were no bills. Counsel had said so.

Shaw was sweating profusely in the witness box and Patricia Robertson QC was mouthing answers to him. I wrote her note as she was doing so, objecting to her conduct.

MISS WEEKES: The [inaudible] that is sometimes needed. Did you find someone who could interrogate the computer if you didn't know or want to do that?

MR SHAW: Well we could have done and had we had made the allegation – if I was going to make the allegation, for instance, that the bills did not exist at the time that the transfers were made then perhaps I would have done that.

MISS WEEKES: It was-

MR SHAW: But I don't think my-

MISS WEEKES: -[made by your counsel?] [inaudible] just help you.

MISS ROBERTSON: Would you let him finish his sentence?

MR SHAW: Yes.

MISS WEEKES: I will. It was made by your counsel which is why I'm asking you the questions.

MR SHAW: Yes. But counsel made these allegations or made these statements in the High Court.

MISS WEEKES: [They were listed?]?

MISS ROBERTSON: Just let him complete his answer.

MR SHAW: In the High Court as I understand it anyway, significantly after the investigation had finished. If you look at the investigation report it says what it says but I don't – if you can tell me where it says that it alleges that these bills did not exist. The thing about this matter is it's moved on considerably from where it was in November of 2004 when the report was done. And clearly what we do as investigators is we establish beyond a reasonable doubt, or that's what we try to do, and obtain evidence to support the facts stated in the Forensic Investigation report. Now, that's what I did.

MISS WEEKES: The point [inaudible] interrupt you I just wanted you to know-

MR SHAW: Yes.

4) DOES THE TWO STAGE PROCESS MEAN THERE ARE NO ACTUAL OFFENCES UNDER GROUNDS 1, 2, 3 AND 8?

> The Court itself conducts "a two-stage process". Its role was summarised by Neuberger J (*Dooley v Law Society* 15.9.2000):
>
> "First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily, whether there are grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues." Holder v The Law Society (2002) CA

If the Two Stage Test (Stage 1) is a valid approach, then it is has to be accepted that there are no actual offences under Grounds 1, 2, 3 and in contrast with the position under Grounds 4,5, 6 and 7, which proposition is illustrated in the following Table:

1974 ACT GROUND	STATUTORY PROVISION	OFFENCE UNDER TWO STAGE TEST (STAGE 1)
Ground 1 Solicitor's Dishonesty	Council has reason to suspect	Whether the Council had reason to suspect the Solicitor of dishonesty
Ground 1 Personal Representative's Dishonesty	Council has reason to suspect	Whether the Council had reason to suspect the Personal Representative of dishonesty
Ground 2 Personal Representative's Undue Delay	Council considers	Whether the Council considered the Personal Representative had been guilty of Undue Delay
Ground 3 Solicitors Account Rules Breach	Council is satisfied	Whether the Council was satisfied the Solicitor had breach the Solicitors Account Rules
Ground 4 Bankruptcy	Based on fact	
Ground 5 Prison	Based on fact	
Ground 6 Mental Health Act	Based on fact	
Ground 7 Struck off	Based on fact	
Ground 8 Undue Delay	Council regards Solicitor's explanation as unsatisfactory	Whether the Council regarded the Solicitor's explanation to delay unsatisfactory

5) DOES THE TWO STAGE PROCESS MEAN THAT WHETHER THE SOLICITOR IS GUILTY OF ANY OFFENCE UNDER GROUNDS 1,2,3 AND 8 IS NEVER CONSIDERED BY THE COURT

It follows from the afore going that whether the Solicitor is guilty of any offence under Grounds 1, 2, 3 and 8 is never considered by the Court.

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

7) DOES THE TWO STAGE PROCESS MEAN THAT THE SOLICITOR IS NOT GUILTY OF ANY OFFENCE: HE IS GUILTY OF 'CIRCUMSTANCES'

In criminal law

1) The criminal statute will define the offence and specify the elements required to prove the offence;
2) Circumstances will have arisen which give the police or other investigators reason to believe that the Accused has committed a crime;
3) The decision to prosecute the Accused will be made by law enforcement agencies, such as the Crown Prosecution Service, Serious Fraud Office, Home Office, HM Customs and Excise;
4) An indictment or charge will be drawn up specifying the offence;
5) Witness, forensic and documentary evidence will be produced by the prosecution against the Accused;
6) The Accused will be able to provide an explanation or defence;
7) The court will determine whether the Accused is guilty of the charges.

For example, under the Theft Act 1968, the crime is defined as follows:

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 "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

-

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.

-

4 "Property".

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

-

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).

-.

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.

-

Under the Fraud Act 2006, the offence is defined as follows:

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—

-

Under common law, the crime of murder is defined in the following terms:

The crime of **murder** is committed where a sane person unlawfully kills another person with intent to kill or cause serious injury. It is not considered to be unlawful killing if there is a reasonable justification, for example self-defence.

Under intervention law,

1) The Solicitor's Act does not specify any offence;
2) The Law Society's reason to suspect the Solicitor of dishonesty is the offence
3) The decision to prosecute the Accused will be made Law Society
4) No indictment or charge is drawn up specifying the offence: the Solicitor has to speculate what the charge might be
5) The Accused cannot provide an explanation or defence because there is no forum for him to do so (the Para 6 (4) Application is not the right forum)
6) If the Accused makes the Para 6(4) Application, which is not the right application, the court will determine whether the .
7) **The facts (if they ever come to light) do not constitute any offence**

The Diagrams below illustrate the above propositions.

SCHEDULES

SCHEDULE 1

Section 35.

INTERVENTION IN SOLICITOR'S PRACTICE

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1 (1) Subject to sub-paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—

(a) 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 ;

(b) 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;

(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;

(d) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors ;

(e) a solicitor has been committed to prison in any civil or criminal proceedings;

(f) the powers conferred by section 104 (emergency powers) or 105 (appointment of receiver) of the Mental Health Act 1959 have been exercised in respect of a solicitor; or

(g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

(2) The powers [illegible]

IRCUMSTANCES OR FACTS	CHARGE
CRIMINAL LAW	
A group of armed black men are in possession of large black vehicle	Theft Act. Possession of offensive weapon. Attempted murder or GBH .
A promises B that if A gives B £1000, A will pay B £100,000 within 30 days	Fraud Act 2006 offences
A man is found bending over a recumbent figure holding a sharp implement which he is about to pierce into it	Attempted murder. GBH.
INTERVENTION LAW	
Reason to suspect of dishonesty is both the circumstance of the offence and the offence	

IRCUMSTANCES OR FACTS	CHARGE	EXPLANATION OR DEFENCE
CRIMINAL LAW		
A group of armed black men are in possession of large black vehicle	Theft Act. Possession of offensive weapon. Attempted murder or GBH .	This is the US Presidential Bodyguard
A promises B that if A gives B £1000 A will pay B £1m within 30 days	Fraud Act 2006 offences	A is a successful Wealth Management Adviser of High Net Worth Individuals
C, a masked man is found bending over a recumbent figure holding a sharp implement which he is about to pierce into it	Attempted murder. GBH.	C is a leading surgeon about to start an operation in theatre
INTERVENTION LAW		
Reason to suspect of dishonesty		Solicitors does not get a chance to defend the intervention , but if he did the facts would not disclose any offence • A Solicitor completes work for a client, bills the client and transfers his costs • A Solicitor transfers money from Client to Office Account • A Solicitor transfers £254,000 from his Practice Accounts to his private account • A Solicitor bills a Client £41,125

CIRCUMSTANCES OR FACTS	CHARGE	EXPLANATION OR DEFENCE	WHAT THE COURT DECIDES
CRIMINAL LAW			
A group of armed black men are in possession of large black vehicle	Theft Act. Possession of offensive weapon. Attempted murder or GBH .	This is the US Presidential Bodyguard	Whether the charge is proven
A promises B that if A gives B £1000 A will pay B £1m within 30 days	Fraud Act 2006 offences	A is a successful Wealth Management Adviser of High Net Worth Individuals	Whether the charge is proven
C, a masked man is found bending over a recumbent figure holding a sharp implement which he is about to pierce into it	Attempted murder. GBH.	C is a leading surgeon about to start an operation in theatre	Whether the charge is proven
INTERVENTION LAW			
Reason to suspect of dishonesty		The Solicitor has no chance to explain, and even if he did, what would he explain without knowing what the Law Society's reasons were	Whether the Law Society had reason to suspect dishonesty

8) DOES THE TWO STAGE PROCESS MEAN THAT THE COURT MUST DECIDE WHETHER CIRCUMSTANCES EXISTED , NOT WHETHER OFFENCES HAVE BEEN COMMITTED?

The fact that the court has to decide whether the circumstances

> First it must decide whether the grounds under paragraph 1 are made out; in this case, primarily, whether there are grounds for suspecting dishonesty. Secondly, if the Court is so satisfied, then it must consider whether in the light of all the evidence before it the intervention should continue. In deciding the second question, the Court must carry out a balancing exercise between the need in the public interest to protect the public from dishonest solicitors and the inevitably very serious consequences to the solicitor if the intervention continues." Holder v The Law Society (2002) CA

If the same approach were applied in the parallel with the criminal case, all the court would have to do in the latter would be to find

1) That A group of armed black men were in possession of large black vehicle

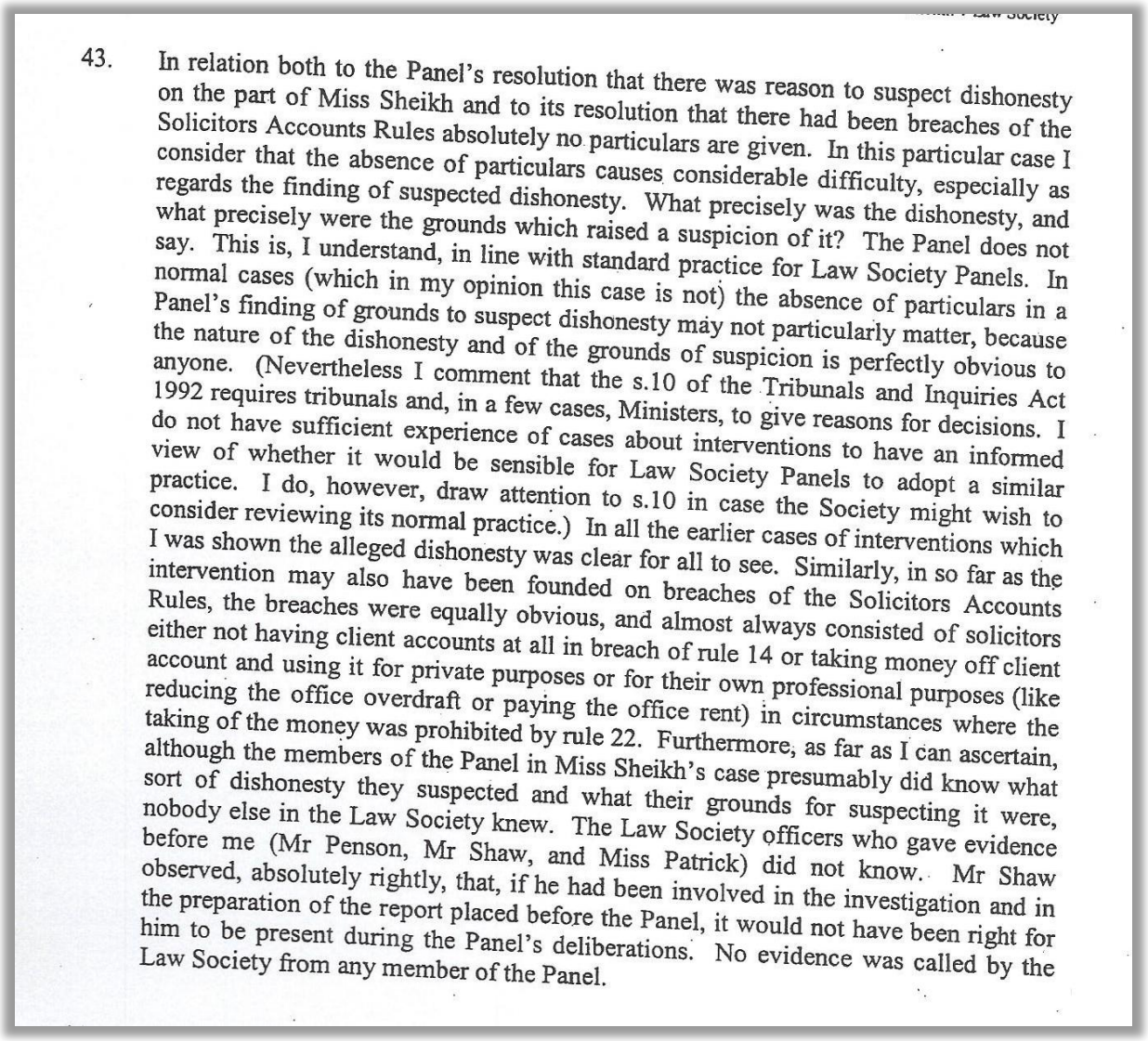
2) That A promised B that if A gave him £1000 A would pay B £1m within 30 days

3) That C, a masked man was found bending over a recumbent figure holding a sharp implement which he was about to pierce into the body

It would be immaterial whether the Accused in each case was guilty of the offence with which he was charged.

9) DOES THE TWO STAGE PROCESS MEAN THAT THE HIGH COURT CANNOT DECIDE THE SOLICITOR'S APPLICATION BECAUSE IT HAS TO CONSIDER WHETHER THE COURT OF APPEAL HAS REASON TO SUSPECT THE SOLICITOR OF DISHONESTY ?

In Anal Sheikh v the Law Society (2005) and in Sritharan and Anr v the Law Society (2004) Treverton Jones did not call the Panel (because he knew there was no Panel)



43. In relation both to the Panel's resolution that there was reason to suspect dishonesty on the part of Miss Sheikh and to its resolution that there had been breaches of the Solicitors Accounts Rules absolutely no particulars are given. In this particular case I consider that the absence of particulars causes considerable difficulty, especially as regards the finding of suspected dishonesty. What precisely was the dishonesty, and what precisely were the grounds which raised a suspicion of it? The Panel does not say. This is, I understand, in line with standard practice for Law Society Panels. In normal cases (which in my opinion this case is not) the absence of particulars in a Panel's finding of grounds to suspect dishonesty may not particularly matter, because the nature of the dishonesty and of the grounds of suspicion is perfectly obvious to anyone. (Nevertheless I comment that the s.10 of the Tribunals and Inquiries Act 1992 requires tribunals and, in a few cases, Ministers, to give reasons for decisions. I do not have sufficient experience of cases about interventions to have an informed view of whether it would be sensible for Law Society Panels to adopt a similar practice. I do, however, draw attention to s.10 in case the Society might wish to consider reviewing its normal practice.) In all the earlier cases of interventions which I was shown the alleged dishonesty was clear for all to see. Similarly, in so far as the intervention may also have been founded on breaches of the Solicitors Accounts Rules, the breaches were equally obvious, and almost always consisted of solicitors either not having client accounts at all in breach of rule 14 or taking money off client account and using it for private purposes or for their own professional purposes (like reducing the office overdraft or paying the office rent) in circumstances where the taking of the money was prohibited by rule 22. Furthermore, as far as I can ascertain, although the members of the Panel in Miss Sheikh's case presumably did know what sort of dishonesty they suspected and what their grounds for suspecting it were, nobody else in the Law Society knew. The Law Society officers who gave evidence before me (Mr Penson, Mr Shaw, and Miss Patrick) did not know. Mr Shaw observed, absolutely rightly, that, if he had been involved in the investigation and in the preparation of the report placed before the Panel, it would not have been right for him to be present during the Panel's deliberations. No evidence was called by the Law Society from any member of the Panel.

Under the Two Stage Process, the Court has to defer to the decision of the Panel but does not examine the Panel so, short of the use of paranormal abilities, does not know the reasons for the Panel's decision.

Even if Members of the Panel were called to give evidence, the Court would not be able to properly evaluate their evidence without also evaluating the evidence upon which the Panel's decision was made.

Taking my own case as a template, the following table breaks down the time it would take to determine the Solicitor's challenge **Part 1D 862-1606:**

	TIME REQUIRED BY THE SOLICITOR AND HIS LEGAL TEAM TO INVESTIGATE	TRIAL TIME TO EXAMINE ISSUE DAYS
Examination of say 3 Panel Members assuming five days examination and cross examination each (20000 sheets)	7 days	15 days
The Court would also have to examine Sarah Bartlett's Fraudulent Report to the Panel and the 5000- 10000 sheets the Panel considered.	5 days	10 days
The Court would also have to examine Calvert's Fraudulent Forensic Examination Report. 150 Page for forgeries and the doctoring of evidence	30 -60 days	20 days
The Court would also have to examine the Multiple Complaints Report Some 5 Arch Lever Files	30 -60 days	30 days
The Court would have to examine the Forensic Investigator and examine all the files he saw	20 days	15 days
The Court would have to examine the other Investigator and examine all the files they saw	10 days	25 days
	100- 200 days	115 days

My trial took 3 months to come to court, lasted for 8 days and, cost me £368,000 (far exceeding the only estimate of costs I received from Paul Saffron of £50,000)

Extrapolating from these statistics, the Solicitor's challenge would take many years to come to court and would cost the Solicitor several tens of millions of pounds.

10) DOES THE TWO STAGE PROCESS MEAN THAT THE SOLICITOR CANNOT DISPUTE THERE ARE NO REASONS TO SUSPECT HIM OF DISHONESTY BECAUSE WHETHER THEY ARE REASONS AND WHAT THOSE REASONS ARE WILL ONLY BE KNOWN ON APPEAL ?

1) CHADWICK LJ IN SHEIKH V THE LAW SOCIETY COURT OF APPEAL

In *Sheikh v Law Society*, on the other hand, Chadwick LJ said this (at paragraph 92):

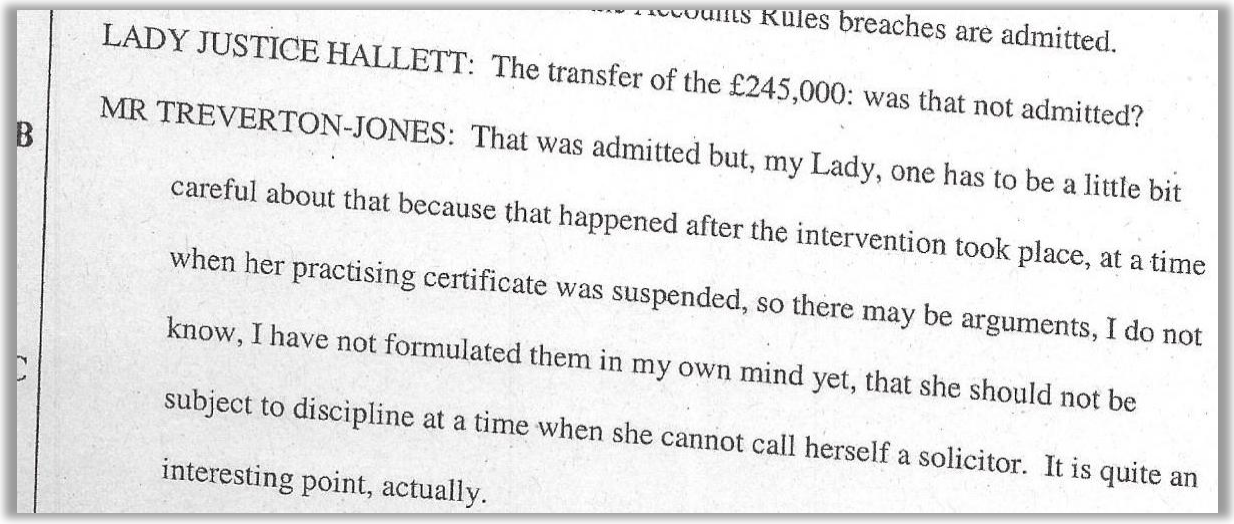
"I should add (by way of parenthesis) that, for my part, I confess to some doubt whether, as Sedley J suggested in *Giles v Law Society*, the court could refuse to direct withdrawal of a notice which 'ought not to have been issued' because the original evidence prompting the intervention 'was too exiguous to found a reasonable suspicion' on the basis that abundant evidence of dishonesty had been found on intervention

The Court can rely on subsequent events

2) THE £254,000 SHEIKH-NRAM REMORTGAGE MONIES

Part 1B8 Page 1607-Page 1762 (The Conspiracy between the Law Society, Treverton Jones KC, Radcliffes, Saffron, Dutton KC and others to steal the £254,000 Sheikh-NRAM Remortgage Monies) sets out the facts.

In the Court of Appeal , Lady Hallett implies that I was dishonest to have taken my own Remortgage Monies (I should have given he money to her or to the Law Society) .



...Accounts Rules breaches are admitted.

LADY JUSTICE HALLETT: The transfer of the £245,000: was that not admitted?

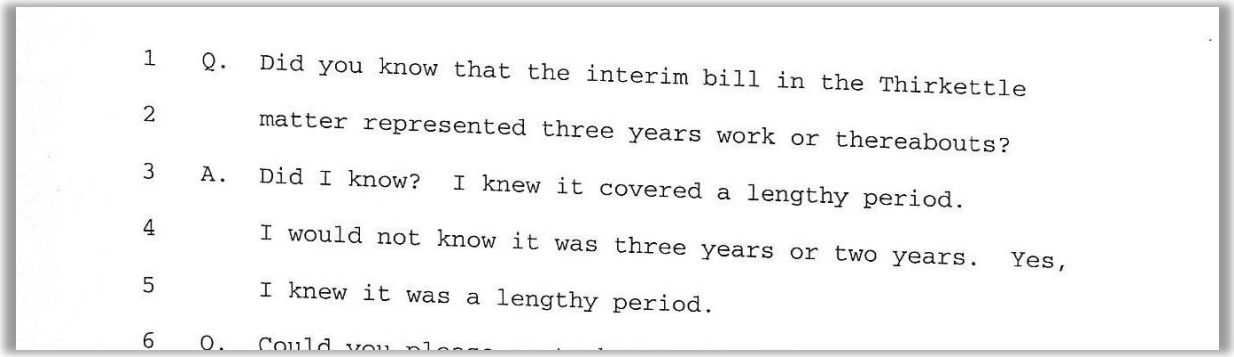
MR TREVERTON-JONES: That was admitted but, my Lady, one has to be a little bit careful about that because that happened after the intervention took place, at a time when her practising certificate was suspended, so there may be arguments, I do not know, I have not formulated them in my own mind yet, that she should not be subject to discipline at a time when she cannot call herself a solicitor. It is quite an interesting point, actually.

Park J would not have known in the High Court that the Court of Appeal would make such a finding , so he could not have dealt with my assertion that I was not dishonest.

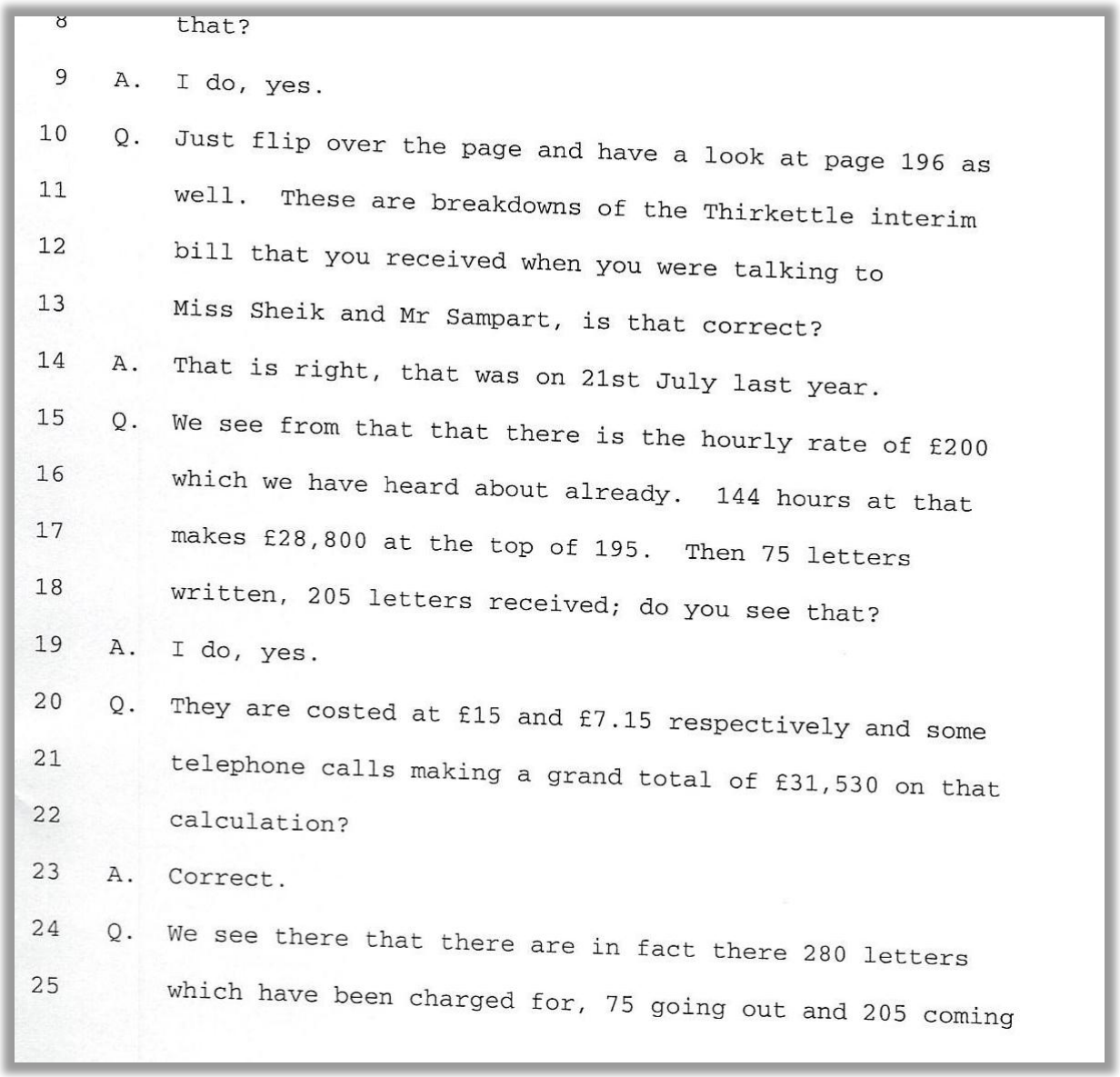
3) THIRKETTLE/CASH SHORTAGE OF £41.125

a) JULY 2006. LORD JUSTICE CHADWICK THINKS A SOLICITOR IS DISHONEST IF HE DOES NOT COMPLETE WITHIN 3 WEEKS A CASE WHICH TOOK 4 YEARS TO COMPLETE (THIRKETTLE) AND CONSISTED OF 16 ARCH LEVER FILES

In the High Court, Shaw acknowledged that the work on Thirkettle covered a lengthy period.

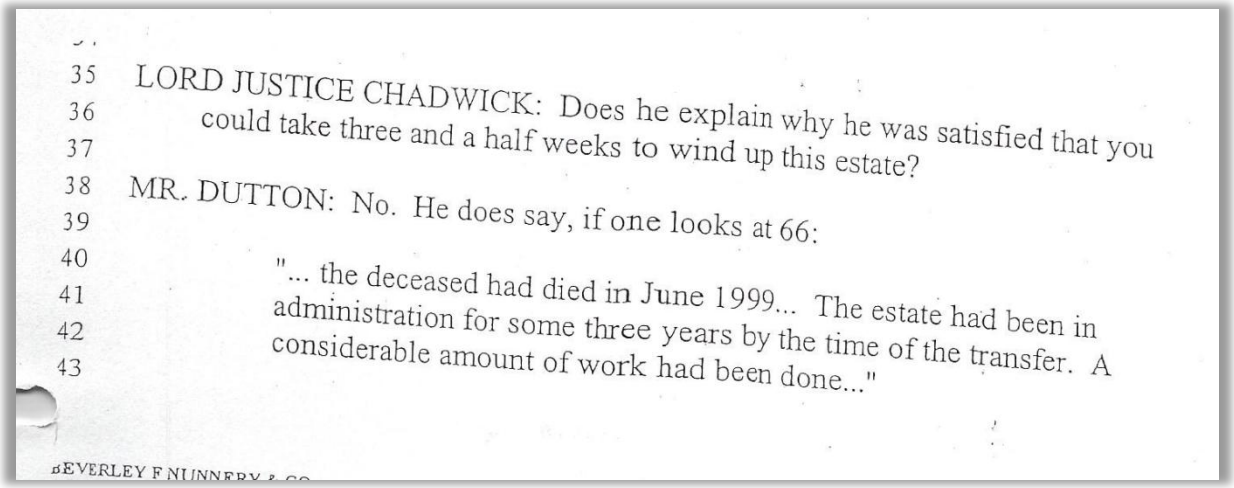


Q. Did you know that the interim bill in the Thirkettle matter represented three years work or thereabouts?
A. Did I know? I knew it covered a lengthy period. I would not know it was three years or two years. Yes, I knew it was a lengthy period.
Q. Could you please



that?
A. I do, yes.
Q. Just flip over the page and have a look at page 196 as well. These are breakdowns of the Thirkettle interim bill that you received when you were talking to Miss Sheik and Mr Sampart, is that correct?
A. That is right, that was on 21st July last year.
Q. We see from that that there is the hourly rate of £200 which we have heard about already. 144 hours at that makes £28,800 at the top of 195. Then 75 letters written, 205 letters received; do you see that?
A. I do, yes.
Q. They are costed at £15 and £7.15 respectively and some telephone calls making a grand total of £31,530 on that calculation?
A. Correct.
Q. We see there that there are in fact there 280 letters which have been charged for, 75 going out and 205 coming

From the Court of Appeal :

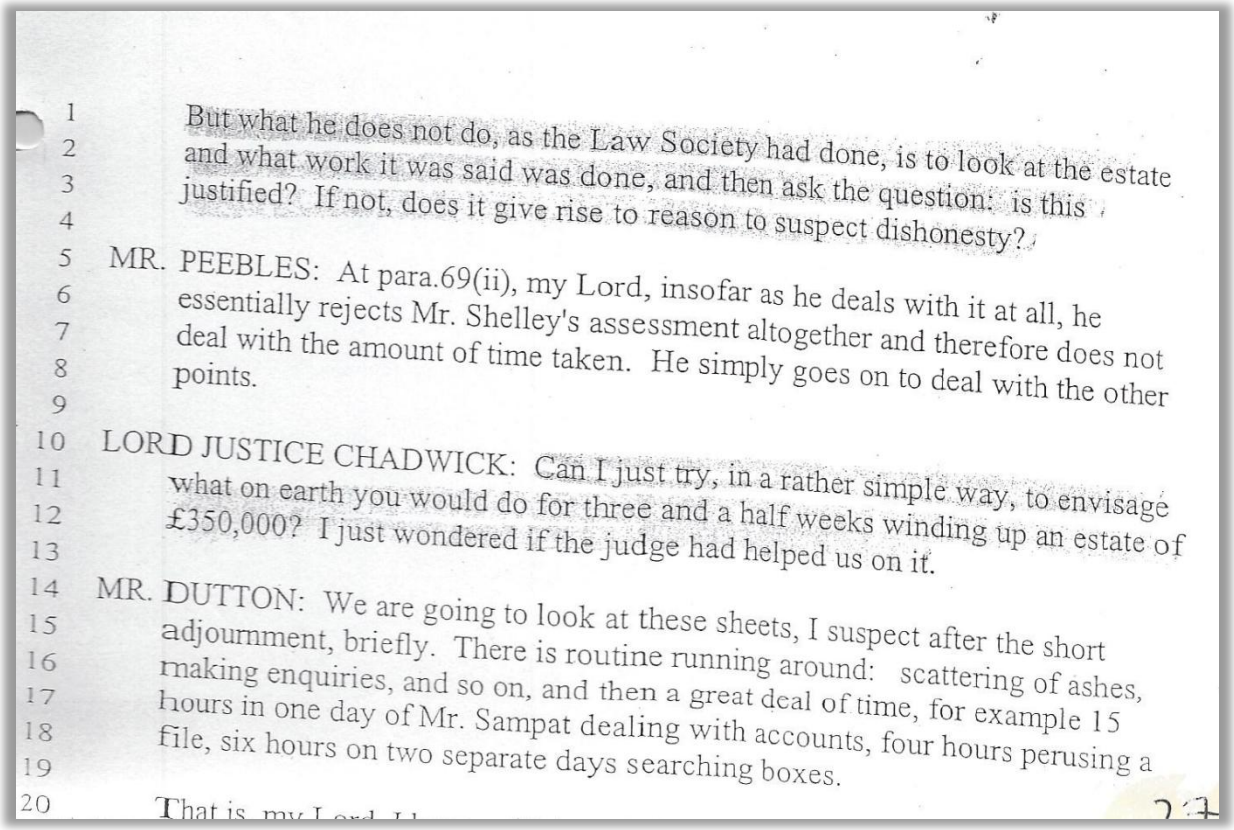


LORD JUSTICE CHADWICK: Does he explain why he was satisfied that you could take three and a half weeks to wind up this estate?

MR. DUTTON: No. He does say, if one looks at 66:

"... the deceased had died in June 1999... The estate had been in administration for some three years by the time of the transfer. A considerable amount of work had been done..."

BEVERLEY F NUNNERY & CO



But what he does not do, as the Law Society had done, is to look at the estate and what work it was said was done, and then ask the question: is this justified? If not, does it give rise to reason to suspect dishonesty?

MR. PEEBLES: At para.69(ii), my Lord, insofar as he deals with it at all, he essentially rejects Mr. Shelley's assessment altogether and therefore does not deal with the amount of time taken. He simply goes on to deal with the other points.

LORD JUSTICE CHADWICK: Can I just try, in a rather simple way, to envisage what on earth you would do for three and a half weeks winding up an estate of £350,000? I just wondered if the judge had helped us on it.

MR. DUTTON: We are going to look at these sheets, I suspect after the short adjournment, briefly. There is routine running around: scattering of ashes, making enquiries, and so on, and then a great deal of time, for example 15 hours in one day of Mr. Sampat dealing with accounts, four hours perusing a file, six hours on two separate days searching boxes.

That is, my Lord, [illegible]

Again, Park J would not have known that this would be the Court of Appeal's finding

11) THE TWO STAGE PROCESS MEANS THAT THE HIGH COURT CANNOT DECIDE THE SOLICITOR'S APPLICATION BECAUSE IT HAS TO CONSIDER WHETHER THE COURT OF APPEAL HAS REASON TO SUSPECT THE SOLICITOR OF DISHONESTY

This proposition follows from the Court of Appeal 's above findings.

12) THE TWO STAGE PROCESS MEANS THAT THE SOLICITOR CANNOT DISPUTE THERE ARE NO REASONS TO SUSPECT HIM OF DISHONESTY BECAUSE WHETHER THEY ARE REASONS AND WHAT THOSE REASONS ARE WILL ONLY BE KNOWN ON APPEAL

If the reasons to suspect can be the Court of Appeal's reasons, the High Court clearly cannot deal with the Solicitor's challenge.

13) THETWO STAGE PROCESS MEANS THAT THE COURT NEVER DISCOVERS THAT THE REASONS TO SUSPECT THE SOLICITOR OF DISHONESTY ARE THE REASONS OF A LIFE COACH, GYM INSTRUCTOR, SALES ASSISTANT, FAILED LAW STUDENT OR OTHER UNQUALIFIED PERSON

Unless the Court examines the Panel Members, which it never does, it will not discover how the Panel's reason to suspect has come about or who has contributed to the fact that it has come about.

14) DOES THE TWO STAGE PROCESS MEAN THAT THE COURT MUST DECIDE WHETHER A PANEL (WHICH MAY OR MAY NOT EXIST OR MAY OR MAY NOT HAVE MET TO CONSIDER ANYTHING) HAD REASON TO SUSPECT THE SOLICITOR OF DISHONESTY ?

Matters in Part 1 show that there was no Panel in the Sheikh 2005 Intervention

15) UNDER THE TWO STAGE PROCESS, IS IT THE CASE THAT THE COURT MUST UPHOLD A GROUND 1 INTERVENTION INTO A BLACK LAW FIRM IF THE COUNCIL OF THE LAW SOCIETY BELIEVE THAT ALL BLACKS ARE INHERENTLY DISHONEST?

In the Sheikh 2005 Intervention the Law Society believed that there was reason to suspect the Solicitor of dishonesty because he had transferred costs from client to office account which ended with a zero having previously delivered a bill to the client, and because he had transferred his remortgage monies to his private account after completion of a remortgage on his property ; the reasons were upheld by the Court of Appeal, the UK's Supreme Court and the European Court of Human Rights.

If the Court must decide under the Two Stage Process Stage 1 whether the Law Society had reason to suspect dishonesty, and there is no requirement for the reason to be reasonable (attested to by the facts of Sheikh) does that mean that the Court has no choice but to uphold the intervention into a firm of black Solicitors because the Law Society had a truly held belief that all blacks are dishonest?

U MONEY LAUNDERING AND THE CASE OF AHMED & CO, BIEBUYCK SOLICITORS, DIXON & CO & ORS RE SOLICITORS ACT 1974 [2006] EWHC (TIMOTHY DUTTON KC AND PATRICIA ROBERTSON ACTING) COLLINS J

Ahmed & Co, Biebuyck Solicitors, Dixon & Co & Ors, Re Solicitors Act 1974 [2006] EWHC ('The Compensation Fund Case') is a case in which 60 interventions were considered (Para 40) to examine issues concerning the Law Society Compensation Fund and in particular to give directions as to the exercise of Law Society's powers in relation to the statutory trusts created by Schedule 1 Part II Para 6. **Part 1D9 Page 1763-1777**

Collins J was a former solicitor and partner in Herbert Smith & Co in the City of London in 1971, specialising in international law. In 1997 he became one of the first two solicitors to be appointed practising Queen's Counsel, and he was appointed a Deputy High Court judge in the same year. In 2000 he was the first solicitor to be appointed to the High Court bench (Chancery Division) direct from private practice, and in 2007 the first former solicitor to be appointed to the Court of Appeal. He was appointed as a Lord of Appeal in Ordinary in April 2009.

Since 1987 he has been the general editor of Dicey and Morris (now Dicey, Morris and Collins), on the Conflict of Laws, the leading work in that field, and he is the author of numerous books and articles on international law. Since 1975 he has been a Fellow of Wolfson College, Cambridge, and since 1982 a visiting professor at Queen Mary, University of London.

In 1994 he was awarded the degree of Doctor of Laws by Cambridge University, and in the same year he was elected a Fellow of the British Academy. Since 1989 he has been an elected member of the Institut de droit international. He is an honorary fellow of Downing College, Cambridge.

Where the Law Society has followed the Fraudulent Intervention Procedure:

a) the statutory trusts are created in violation of the statutory provisions

b) the statutory trusts comprised Solicitor's Banked Money are acquired through a criminal act under (Para 6 (6)

c) the statutory trusts comprised Solicitor's Banked Money are acquired through a criminal conspiracy under (Para 6 (6)

The Compensation Fund Case is shown in terms of money laundering in the following diagrams:

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.

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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

THEFT OF PRACTICING CERTIFICATE FEES

£70m per year is used by the SRA for its running costs to undertake sham investigations and Fraudulent Interventions. The theft is disguised as the exercise of the Law Society's Intervention Powers

THEFT OF THE SOLICITOR'S BANKED FUNDS

The Law Society uses the Vesting Resolution to steal the Solicitor's Banked Money committing offences inter alia contrary to the Solicitors Act 1974 Schedule 1 Para 6 (6)

THEFT FROM THE COMPENSATION FUND

Used to fund sham litigation

Repetitive cycle of theft from the Compensation Fund

STATE 1 PLACEMENT

The Solicitors Banked Money cannot be put directly into the personal accounts of those who are behind the Law Society's Fraudulent Interventions so it is put into, say, Russell Cooke's account

STAGE 2 LAYERING

Layering is achieved by sham proceedings such as the Solicitor's Para 6 (4) Withdrawal Application in the Chancery Division of the High Court, appeals to the Court of Appeal and to the Supreme Court, the Solicitors Disciplinary Tribunal findings, appeals the Administrative Court , judicial review claims and appeals to the Court of Appeal, costs hearings, bankruptcy hearings, and civil restraint hearings .

STAGE 3 INTEGRATION

The case of Ahmed & Co, Biebuyck, Dixon & Co and the practices of Mr Zoi and In the Matter of Sections 35 and 36 and Schedules 1 and 2 of The Solicitors Act 1974 and In the Matter of the Law Society Compensation Fund Rules 1995 (2009) Collins J authorised the use of historic balances , in other words , money stolen by the Law Society in Fraudulent Interventions towards the Law Society's legal costs. By so doing, the stolen money finds its way back into the legitimate economy

138. Was the Compensation Fund Case used to integrate the monies the Law Society steals from solicitors in Fraudulent Interventions?

139. Does Collins J's judgment reinforce the Law Society's Fraudulent Intervention Procedure **Page 1766-1768**

140. Does Collins J's judgment legitimise the Banks' criminal offences under Para 6(6) **Page 1768-1771**

141. Does Collins J's judgment legitimise the Law Society's offences under the Serious Crime Act 2015 (encouraging and inciting **Page 1772-1773**

142. Does Collins J's judgment legitimise the Law Society's theft of Solicitors' Unbilled Costs **Page 1774-1775**

143. Does Collins J's judgment legitimise the Law Society's theft of Residual Balances **Page 1775-1777**

144. Does Collins J's judgment legitimise the Law Society's theft of Bona Vacantia **Page 1777**

145. Can the Judiciary be said to have aided and abetted the theft of Bona Vacantia from the Crown By reason of Collins' J's judgment?

146. If so, Collins J and the Judiciary be said to have committed treason?

147. Should Collins J have recognised that no one represented the Crown's interest?

148. Was Collins J conflicted by reason of the fact that his contributions were used to commit fraudulent interventions which were now the subject of the case he was adjudging?

149. Collins J's Judgment provides that Residual Balances can be applies towards the Law Society's costs of intervention. Was Collins J conflicted by reason of the following facts and matters

    1) if the Law Society's fees are met from Residual Balances the claim on the Compensation Fund decreases which result in the in reduction in Compensation Fund contributions from which, obviously, Collins J, a solicitor, would personally benefit

    2) Collins J should have seen that Dutton and Robertson benefitted personally form his order.

    3) Collins J should have seen that the Law Society could apply the money it had stolen to steal more money.

V THE LAW SOCIETY'S ALLEGATIONS IN ANAL SHEIKH V THE LAW SOCIETY [2005] EWHC 1409 (CH) , ANAL SHEIKH V THE LAW SOCIETY [2006] EWCA CIV 1577 , ANAL SHEIKH V THE LAW SOCIETY [2007] HL AND ANAL SHEIKH V THE UK GOVERNMENT 51144/07 [2010] ECHR 649 (23 APRIL 2010)

1 ROUND SUM TRANSFER ALLEGATION.

1) PAGE REFERENCES

The Round Sum Transfer as an Absurd Proposition **Part 1D2 Page 980-983** Placement and Layering by Dutton **Page 1027-1034.** The treatment of the sham allegation **Page 1039-1151** Park J's findings **Page1371-1384** Dutton's Fraudulent Advice to the Law Society's High Profile Litigation Panel **Page 1553-1554**

2) WHAT IS THE REAL RULE BREACH?

Rule 19 (1) provides that when a Solicitor requires payment for his work and is holding money on account from the Client he must first deliver a bill to his Client (Rule 19(1) Breach)

Proving Rule 19 (1) Breach is very simple. An investigator has to look at a file to find a letter to the Client sending him a bill or notification and compare it with the date of the transfer on the Client Ledger.

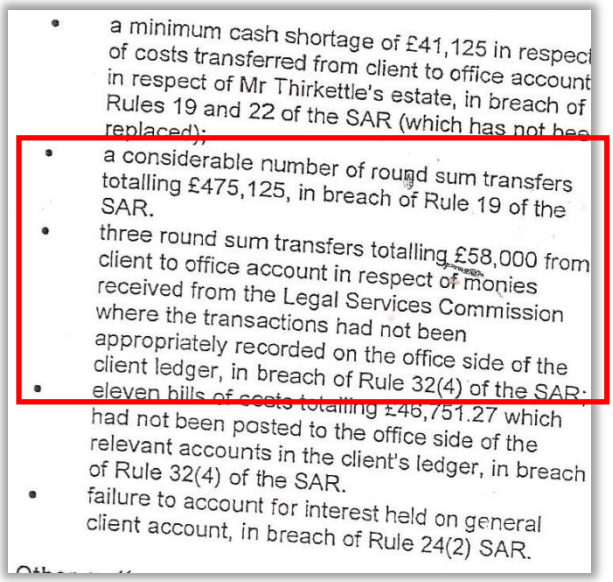
If the Investigator were provided with a stack of files with the letter tagged for his convenience and the Client Ledgers, it would about 15 seconds per file to confirm that the Letter pre dated the date of the transfer or the dates were the same. The Investigator looked at about 100 files in my case and that would have taken 25 minutes. At the above page references, I show that 10 year old child could discharge the task.

It should be obvious from the nature of the breach that the allegation, if made by the Law Society , cannot fail: the Solicitor has either transferred costs before or without delivering a bill, or he has not. There can be no ambiguity about it.

3) WHY THE LAW SOCIETY USES THE RULE 19 BREACH AS GROUNDS TO INTERVENE WHEN IT KNOWS THE SOLICITOR HAS NOT BREACHED THE RULE AND HOW IT DOES IT

In my case, the allegation was made and did fail.

The Fraudulent Allegation was set out in the Fraudulent Forensic Report as follows:



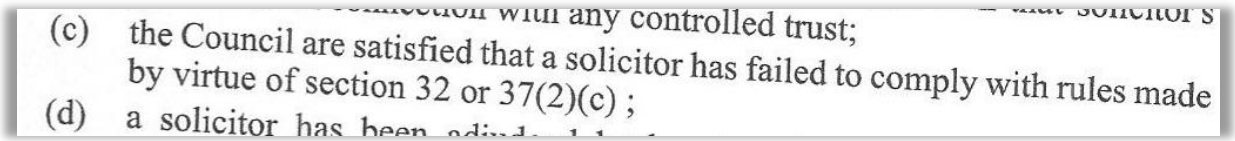
- a minimum cash shortage of £41,125 in respect of costs transferred from client to office account in respect of Mr Thirkettle's estate, in breach of Rules 19 and 22 of the SAR (which has not bee replaced);
- a considerable number of round sum transfers totalling £475,125, in breach of Rule 19 of the SAR.
- three round sum transfers totalling £58,000 from client to office account in respect of monies received from the Legal Services Commission where the transactions had not been appropriately recorded on the office side of the client ledger, in breach of Rule 32(4) of the SAR;
- eleven bills of costs totalling £46,751.27 which had not been posted to the office side of the relevant accounts in the client's ledger, in breach of Rule 32(4) of the SAR.
- failure to account for interest held on general client account, in breach of Rule 24(2) SAR.

The Law Society makes the allegation knowing that the Solicitor has not breached Rule 19 (1) because it implies that the Solicitor is pilfering Client Money which enables it to allege dishonesty and be paid its intervention costs from the Compensation Fund

4) HOW THE LAW SOCIETY SUCCEEDS IN INTERVENING ON A RULE 19 (1) BREACH WHEN THERE HAS BEEN NO RULE 19 (1) BREACH: THE LAW SOCIETY AND THE MASTER OF THE ROLLS COLLUDE TO CALL IT A 'ROUND SUM TRANSFER' BREACH

a) WAS THE MISCHIEF PLANNED IN 1974? THE INTENTION THAT GROUND 3 APPLIED ONLY IF CLIENT MONEY WAS IN JEOPARDY NOT REFLECTED IN PARA 1(1)(C)

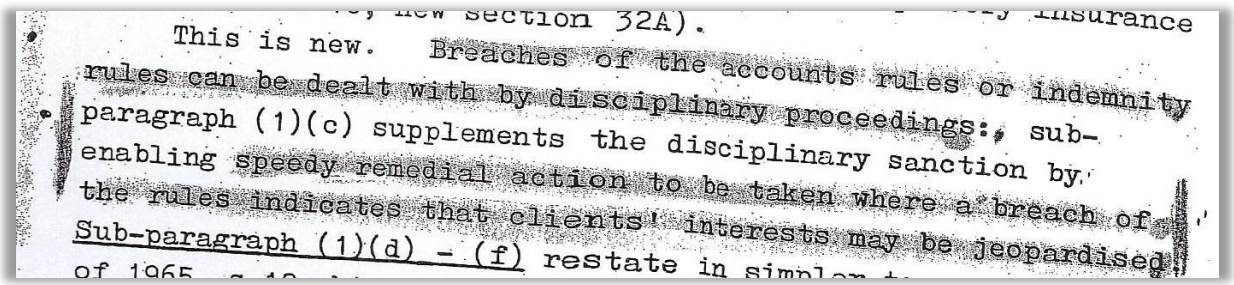
Para 1 (c) provides as follows:



(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section 32 or 37(2)(c) ;

(d) a solicitor has been

The 1971-1972 Parliamentary Records show that the intention was that Solicitors' Account Rules breaches would not *per se* constitute Grounds for Intervention; such breaches would only be grounds for intervention if 'clients' interests (sic were) jeopardised' .



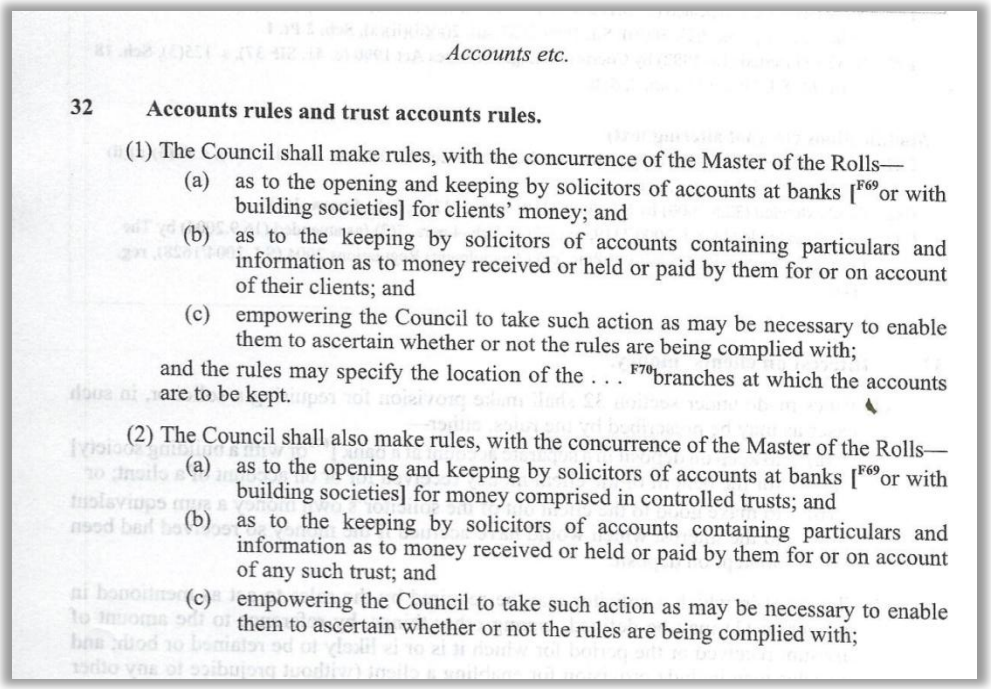
new section 32A).

This is new. Breaches of the accounts rules or indemnity rules can be dealt with by disciplinary proceedings; sub-paragraph (1)(c) supplements the disciplinary sanction by enabling speedy remedial action to be taken where a breach of the rules indicates that clients' interests may be jeopardised. Sub-paragraph (1)(d) - (f) restate in simpler

The proviso was omitted in the wording which was enacted without explanation , making a per se account rule breach grounds for intervention.

b) THE LAW SOCIETY'S RIGHT TO MAKE SECONDARY LEGISLATION WITH THE MASTER OF THE ROLLS CONCURRENCE

S. 32 Solicitors Act 1974 as at 2001 provides as follows:



Accounts etc.

32 Accounts rules and trust accounts rules.

(1) The Council shall make rules, with the concurrence of the Master of the Rolls—

(a) as to the opening and keeping by solicitors of accounts at banks [F69or with building societies] for clients' money; and

(b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of their clients; and

(c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with;

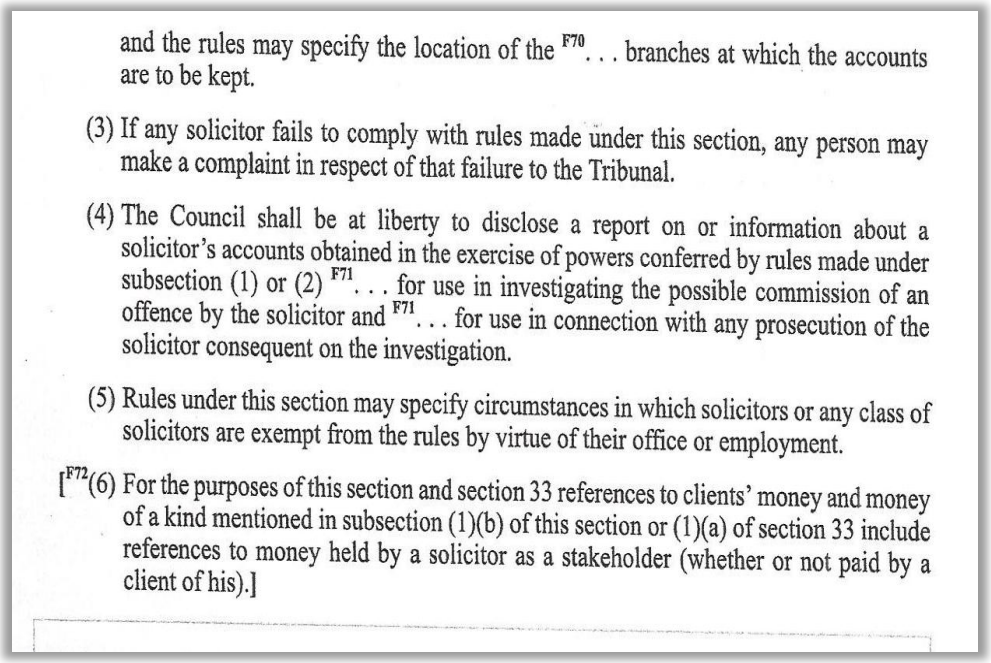
and the rules may specify the location of the . . . F70branches at which the accounts are to be kept.

(2) The Council shall also make rules, with the concurrence of the Master of the Rolls—

(a) as to the opening and keeping by solicitors of accounts at banks [F69or with building societies] for money comprised in controlled trusts; and

(b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of any such trust; and

(c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with;



and the rules may specify the location of the F70. . . branches at which the accounts are to be kept.

(3) If any solicitor fails to comply with rules made under this section, any person may make a complaint in respect of that failure to the Tribunal.

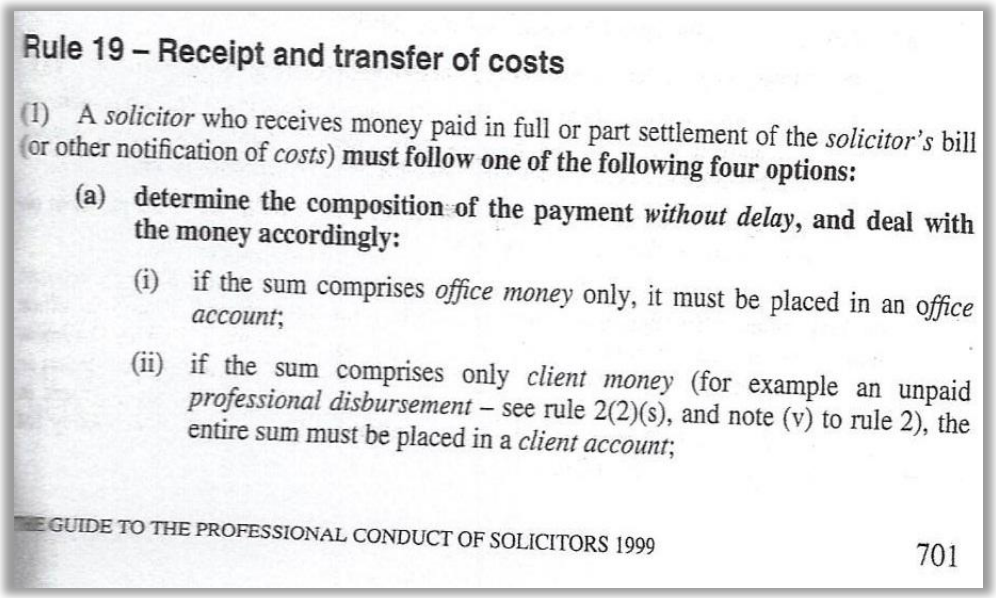
(4) The Council shall be at liberty to disclose a report on or information about a solicitor's accounts obtained in the exercise of powers conferred by rules made under subsection (1) or (2) F71. . . for use in investigating the possible commission of an offence by the solicitor and F71. . . for use in connection with any prosecution of the solicitor consequent on the investigation.

(5) Rules under this section may specify circumstances in which solicitors or any class of solicitors are exempt from the rules by virtue of their office or employment.

[F72(6) For the purposes of this section and section 33 references to clients' money and money of a kind mentioned in subsection (1)(b) of this section or (1)(a) of section 33 include references to money held by a solicitor as a stakeholder (whether or not paid by a client of his).]

c) RULE 19 OF THE SOLICITORS ACCOUNT RULES (SAR)

The SAR was made pursuant to the above provision. SAR Rule 19 governs the receipt and transfer of costs, the material parts being marked in red.



Rule 19 – Receipt and transfer of costs

(1) A *solicitor* who receives money paid in full or part settlement of the *solicitor's* bill (or other notification of *costs*) **must follow one of the following four options:**

(a) determine the composition of the payment *without delay*, and deal with the money accordingly:

(i) if the sum comprises *office money* only, it must be placed in an *office account*;

(ii) if the sum comprises only *client money* (for example an unpaid *professional disbursement* – see rule 2(2)(s), and note (v) to rule 2), the entire sum must be placed in a *client account*;

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(iii) if the sum includes both *office money* and *client money* (such as unpaid *professional disbursements*; purchase money; or payments in advance for court fees, stamp duty, Land Registry registration fees or telegraphic transfer fees), the solicitor must follow rule 20 (receipt of mixed payments); **or**

(b) ascertain that the payment comprises only *office money*, and/or *client money* in the form of *professional disbursements* incurred but not yet paid, and deal with the payment as follows:

(i) place the entire sum in an *office account* at a *bank* or *building society* branch (or head office) in England and Wales; and

(ii) by the end of the second working day following receipt, either pay any unpaid *professional disbursement*, or transfer a sum for its settlement to a *client account*; **or**

(c) pay the entire sum into a *client account* (regardless of its composition), and transfer any *office money* out of the *client account* within 14 days of receipt; or

(d) on receipt of *costs* from the Legal Aid Board, follow the option in rule 21(1)(b).

(2) A *solicitor* who properly requires payment of his or her fees from money held for the *client* or *controlled trust* in a *client account* must first give or send a bill of *costs*, or other written notification of the *costs* incurred, to the *client* or the paying party.

(3) Once the *solicitor* has complied with paragraph (2) above, the money earmarked for costs becomes *office money* and must be transferred out of the *client account* within 14 days.

(4) A payment on account of *costs* generally is *client money*, and must be held in a *client account* until the *solicitor* has complied with paragraph (2) above. (For an exception in the case of legal aid payments, see rule 21(1)(a).)

(5) A payment for an *agreed fee* must be paid into an *office account*. An "agreed fee" is one that is fixed – not a *fee* that can be varied upwards, nor a *fee* that is dependent on the transaction being completed. An *agreed fee* must be evidenced in writing.

Notes

(i) For the definition and further examples of office and client money, see rule 13 and notes.

(ii) Money received for paid disbursements is office money.

- Money received for unpaid professional disbursements is client money.
- Money received for other unpaid disbursements for which the solicitor has incurred a liability to the payee (for example, travel agents' charges, taxi fares, courier charges or Land Registry search fees, payable on credit) is office money.
- Money received for disbursements anticipated but not yet incurred is a payment on account, and is therefore client money.

(iii) The option in rule 19(1)(a) allows a solicitor to place all payments in the correct account in the first instance. The option in rule 19(1)(b) allows the prompt banking into an office account of an invoice payment when the only uncertainty is whether or not the payment includes some client money in the form of unpaid professional disbursements. The option in rule 19(1)(c) allows the prompt banking into a client account of any invoice payment in advance of determining whether the payment is a mixture of office and client money (of whatever description) or is only office money.

(iv) A solicitor who is not in a position to comply with the requirements of rule 19(1)(b) cannot take advantage of that option.

(v) The option in rule 19(1)(b) cannot be used if the money received includes a payment on account – for example, a payment for a professional disbursement anticipated but not yet incurred.

(vi) In order to be able to use the option in rule 19(1)(b) for electronic payments or other direct transfers from clients, a solicitor may choose to establish a system whereby clients are given an office account number for payment of costs. The system must be capable of ensuring that, when invoices are sent to the client, no request is made for any client money, with the sole exception of money for professional disbursements already incurred but not yet paid.

(vii) Rule 19(1)(c) allows clients to be given a single account number for making direct payments by electronic or other means – under this option, it has to be a client account.

(viii) A solicitor will not be in breach of rule 19 as a result of a misdirected electronic payment or other direct transfer, provided:

(A) appropriate systems are in place to ensure compliance;

(B) appropriate instructions were given to the client;

(C) the client's mistake is remedied promptly upon discovery; and

(D) appropriate steps are taken to avoid future errors by the client.

(ix) "Properly" in rule 19(2) implies that the work has actually been done, whether at the end of the matter or at an interim stage, and that the solicitor is entitled to appropriate the money for costs.

(x) Costs transferred out of a client account in accordance with rule 19(2) and (3) must be specific sums relating to the bill or other written notification of costs, and covered by the amount held for the particular client or controlled trust. Round sum withdrawals on account of costs will be a breach of the rules.

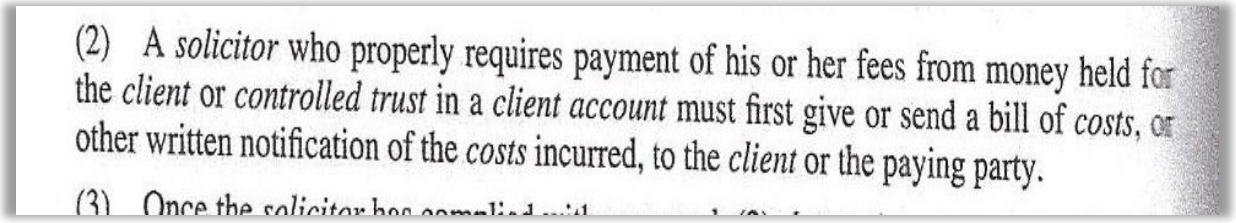
(xi) In the case of a controlled trust, the paying party will be the controlled trustee(s) themselves. The solicitor must keep the original bill or notification of costs on the file, in addition to complying with rule 32(8) (central record or file of copy bills, etc.).

(xii) Undrawn costs must not remain in a client account as a "cushion" against any future errors which could result in a shortage on that account, and cannot be regarded as available to set off against any general shortage on client account.

(xiii) The rules do not require a bill of costs for an agreed fee, although a solicitor's VAT position may mean that in practice a bill is needed. If there is no bill, the written evidence of the agreement must be filed as a written notification of costs under rule 32(8)(b).

d) NOTE X TO RULE 19 IS NONSENSE SO WHY DID THE MASTER OF THE ROLLS CREATE IT?

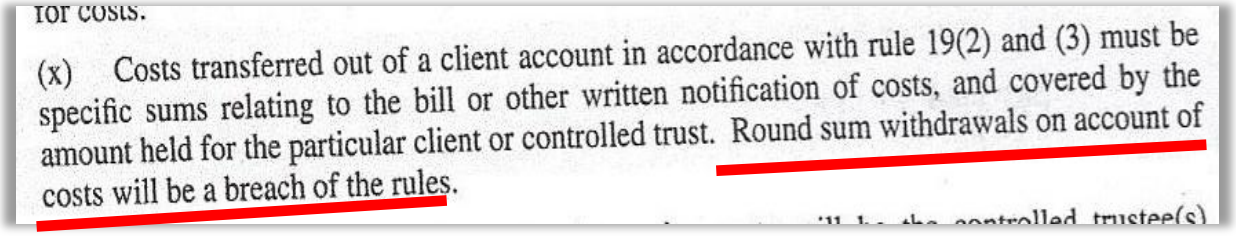
Sub rule SAR 19 (2) provides that if a solicitor requires payment of his fees, he must first notify his client by first sending a bill or other notification



(2) A *solicitor* who properly requires payment of his or her fees from money held for the *client* or *controlled trust* in a *client account* must first give or send a bill of *costs*, or other written notification of the *costs* incurred, to the *client* or the paying party.

(3) Once the solicitor has complied with

SAR Rule 19 Note (x) provides that round sum withdrawals made on account (i.e before sending a bill of costs or other notification to the client) are in breach of the rule (the Round Sum Transfer Rule Breach)



for costs.

(x) Costs transferred out of a client account in accordance with rule 19(2) and (3) must be specific sums relating to the bill or other written notification of costs, and covered by the amount held for the particular client or controlled trust. Round sum withdrawals on account of costs will be a breach of the rules.

will be the controlled trustee(s)

The reference in Note (x) to Rule 19 to ' Round Sum Withdrawals' (The Master of the Rolls SAR Note) is superfluous, because it neither qualifies nor clarifies the main rule. The Note is also inaccurate and misleading because, by stating that round sum withdrawals are in breach of the Rules, the Note implies that, conversely, non round sum transfers or exact sum withdrawals are not in breach of the Rules. Both round sum transfers and non round transfers breach the Rule, so why make the statement?

The explanation for the Master of the Rolls' SAR Note is that solicitors who are in financial difficulties usually transfer costs in 'round sums'. That may be the sense of Note (x), but if it were , its proper place would be in a Tutorial Manual or Code of Guidance for the Law Society's Forensic Investigators. Why is Master of the Rolls' SAR Note part of secondary legislation?

The Master of the Rolls, second in judicial importance to the Lord Chief Justice, is responsible for endorsing the Solicitors Account Rules. How could the Master of the Rolls have been so incompetent, or so reckless, as to have endorsed a Rule which was so obviously unnecessary, wrong and misleading?

The fact is that the Master of the Rolls' SAR Note enables the Law Society to make false allegations of a Rule 19 Breach; if caught out, the Law Society could always say, as it did in my case

Well, we thought the definition of a Round Sum Transfer
was a bill which ended with a zero. We never meant to allege that
the Solicitor transferred costs when there were no bills!

e) DAVID SHAW, THE LAW SOCIETY'S FORENSIC ACCOUNTANT, BELIEVES RULE 19 (1) BREACH AND THE MASTER OF THE ROLLS NOTE X (ROUND SUM TRANFSERS) ARE TWO DISTINCT ACCOUNT RULE BREACHES

If any investigator involved in an HMRC investigation had suspicions that a business was overstating its claimable expenditure to reduce its income tax liability he would start the investigation by examining the company's books., and if he found a suspicious invoice he would show it to the business owner and question him about it. After all, there could be a perfectly innocent explanation.

It would be absurd for him to start the investigation by summoning the business owner to a meeting and, without having examined the books, to ask him :

Why do you fraudulently overstate your expenses?

In a Law Society investigation, one of the first enquiries the Investigator would make would be to discover whether the Solicitor has transferred costs before delivering a bill and he would make the enquiry by examining the Solicitor's files and accounting records. Unless Rule 19 (1) Breaches were found there would be no reason for Rule 19 Breaches to be mentioned in any interview save to say

We are pleased to note that you have not committed any Rule 19 Breaches

If the Investigator found Rule 19 Breaches he would discuss them with the Solicitor to discover whether they had been by mistake or were made intentionally.

It would be a nonsense for the Investigator to start the investigation by asking the Solicitor the following question and expecting a reply

Please explain why you have breached Rule 19 (1)

What if the Solicitor were to say

I'm very sorry. I have breached Rule 19 (1) in every single case I have ever worked on without exception.

but on examination of the files the Investigator found that the Solicitor had never breached Rule 19 (1)? He might consider that that Solicitor was suffering from some sort of mental disorder or had misunderstood Rule 19 (1) but he would not allege breach of Rule 19 (1)

Mr Johnson was the first Forensic Accountant involved in the investigation. He attended as follows:

1) 23 February 2004
2) 24 February 2004
3) 25 February 2004
4) 26 February 2004
5) 27 February 2004

6) 17 March 2004
7) 19 March 2004

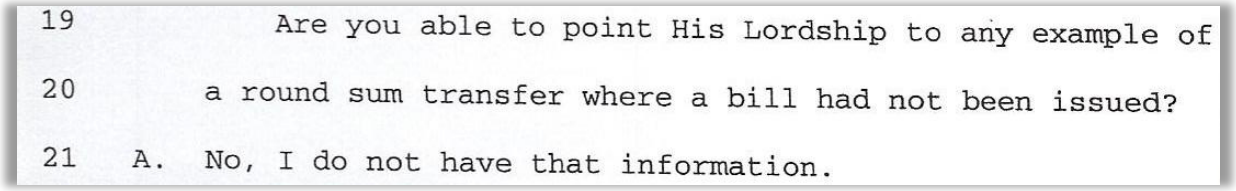
Mr Johnson did not interview me. No records of Mr Johnson's findings were produced.

David Shaw, a Senior Forensic Accountant with 20 years experience, was the Law Society's main witness throughout and Mr Johnson's replacement. He attended on the following dates:

1) 20 April 2004
2) 21 April 2004
3) 28 April 2004 (interview)
4) 20 May 2004
5) 21 May 2004
6) 21 July 2004 (interview)

The only investigation and interview records relating to the Law Society Round Sum Transfer Allegations are the four sheets included in the extracts from **Page 268-275**

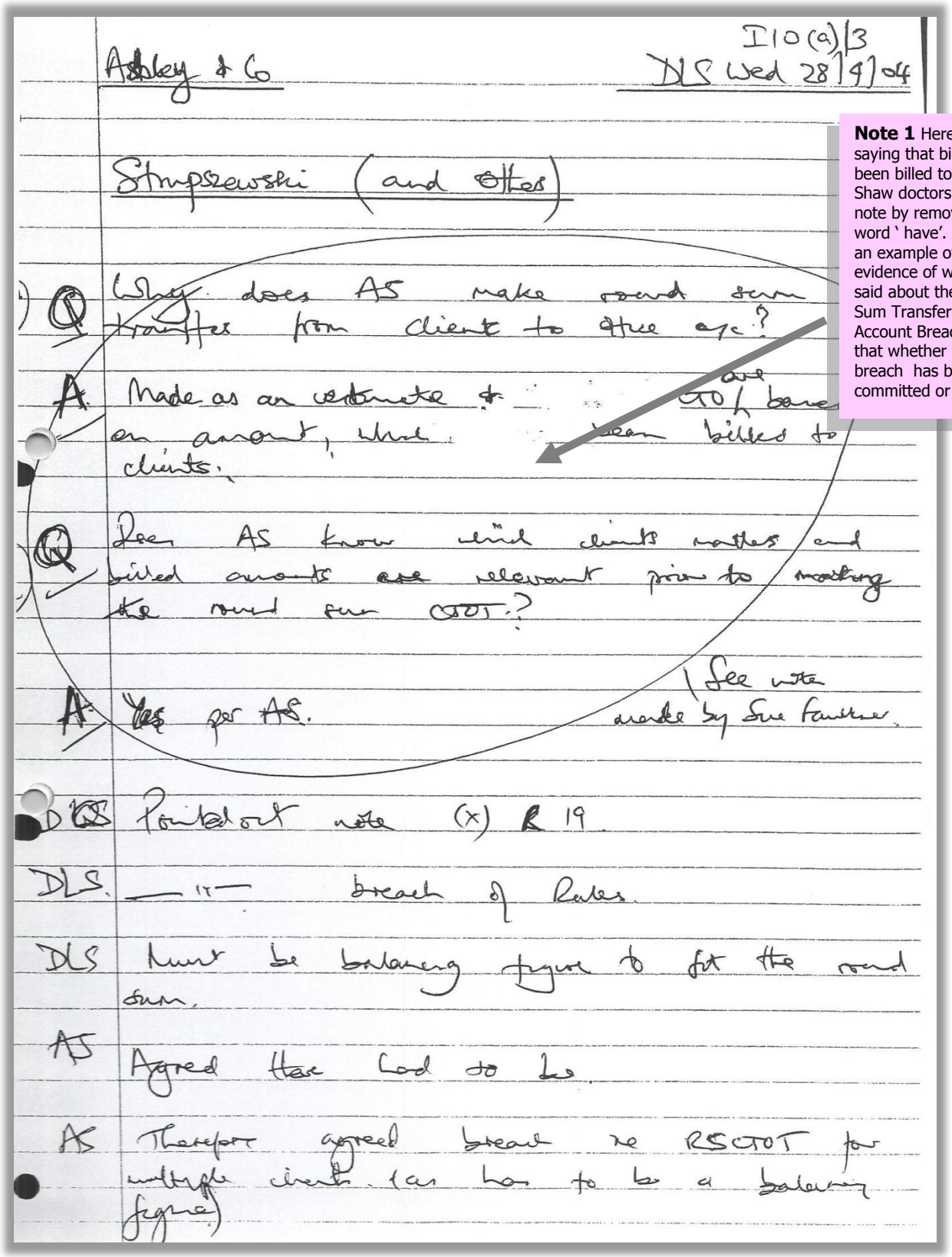
At trial David Shaw confirms that no Rule 19 (1) Breaches were found


19 Are you able to point His Lordship to any example of
20 a round sum transfer where a bill had not been issued?
21 A. No, I do not have that information.

However, David Shaw does something inexplicable : he starts his investigation with the interview with to ask me not about Rule 19(1) Breaches but about 'Round Sum Transfers'. Mr Johnson has already examined the books, so if there were Rule 19(1) Breaches, Shaw would have been expected to specify them.

The only explanation for the approach taken by Shaw is

1) That Shaw had never read and was not aware of Rule 19 (1), or
2) That Shaw was aware of Rule 19(1), but did not understand it, and
3) That Shaw believed that the breach was the breach of the Master of the Rolls Note X (the Round Sum Transfer Rule)



I10(a)/3
DLS Wed 28/4/04

Ashley & Co

Stmpszewski (and Ors)

Q Why does AS make round sum transfers from client to Hse a/c?

A Made as an estimate & ~~on~~ are CTO/ based on amount, which have been billed to clients.

Q Does AS know which clients matters and billed amounts are relevant prior to making the round sum CTOT?

A Yes per AS. See note made by Sue Faulkner.

DLS Pointed out note (x) R 19.

DLS — it — breach of Rules.

DLS Must be balancing figure to fit the round sum.

AS Agreed Hse Cod to Lo.

AS Therefore agreed breach re RSCTOT for multiple clients. (as has to be a balancing figure)

Note 1 Here I am saying that bills 'have been billed to clients' Shaw doctors the note by removing the word ' have'. This is an example of using evidence of what is said about the Round Sum Transfer on Account Breach rather that whether the breach has been committed or not

FAULKNER'S FALSE RST RECORD - DATE UNKNOWN. PART EXTRACTED AND PART DELETED

27/5/04

I 10(a)/5

Hi David

Here are the notes on Skupczewski — the discussion on round sum transfers begins at the bottom of page 4. of the notes.

Cindy

On 27 May 2004 Shaw calls for Faulker's False RST Record to fraudulent alter his own record

Note

These notes were made on 28/4/04

DLS Thurs 27/5/04

I10(A)/9

The ledger shows fees of £250 plus VAT on 5/7/00. I cannot see these fees on the statement of assets and liabilities. Can you explain this? Where is the bill? (costs to be to office on 26/9/00)

May be a private matter. Did you not look at original bill?

Not one on file

Sensible thing to do is get file. Bear client for years, may be an old matter for the dec'd that I have charged for. It is not part of the probate. I don't do them for that small a sum.

It may be a will done.

Why would it come out of estate.

He was a residuary ben. I am entitled to do this. The sd take what I am entitled to after doing the work, out of the estate.

I can find the old bill. It is too small for a probate bill.

Your costs were £19,975

re. VAT. Can you explain why £20,000 was taken from the client acc. on 7/6/01?

I did it after the bill was put in. Yes I did.

At the time,

On face of it, it looks like an error.

credit balance on office

Shouldn't be here, no means of explanation.

I don't know, the only thing I can think of is it is an accounting error.

We've noticed a considerable sum of round sum transfers can you explain why you make them?

150

8)

I 10(a)/11

The position of the manuscript note on the page suggests that some words appeared before it, again showing that Investigators knew that bills were always delivered prior to costs transfers

yes, I draw down the interest, my bank statement, * if a bit short, or if I know I am owed costs,

I do an estimate of total sum & transfer it over & at end of day I allocate & prepare the bills. I haven't got the time to do the transfers as M. hasn't.

I know exactly the amount I am able to take - they are billed to client.

* I have it in my mind.

You will be aware of £58,000 on account 1000 account.

NO.

You are aware of your 1000 / legal aid a/c.

yes.

3 transfers, not allocated on relevant client matters to which 58k relates - told by Mr Sampat.

That sounds odd. Not sure that is right. My understanding is that it is sent ledger. checked this with my accountant.

It is a requirement of the rules.

It isn't actually. The LAB is your client. You don't have to allocate.

Rule 32(4).

~~Amount previously~~ 2/5/01, 3 transfers. £20k on 2/3/01 £20k, 29/10/02 £18k. Not allocated at time ~~I transfer~~ since. That would be out.

9)

I 10(a)/11

yes, I draw down the internet, my bank statement, & if a bit short, or if I know I am owed costs,

I do an estimate of total sum & transfer it over & at end of day I allocate & prepare the bills. I haven't got the time to do the transfers on M. hasn't.

I know exactly the amount I am able to take - they are billed to client.

& I have it in my mind.

You will be aware of £58,000 on account 1000 a account.

No.

You are aware of your 1000 / legal aid a.

yes.

3 transfers, not decided on relevant client matters to which £58k relates - told by Mr Sampat.

That sounds odd. Not sure that is right. My understanding is that it is on ledger. checked this with my accountant.

It is a requirement of the rules

It isn't actually. The LAB is your client. You don't have to allocate.

Rule 32(4).

~~[illegible]~~ 2.5.01, 3 transfers. £20K on 23.7.01 £20K, 29.1.02 £18k. Not allocated at time [illegible] since. That would be odd.

SHAW'S WITHELD NOTE RECORDING THAT HE SAW COMPUTER SCREEN SHOWING BATCH POSTING. 21 JULY 2004?

=

I (10) (a) /10 ?

The numbering at the top right hand corner is Shaw's internal numbering. The number on the previous page is **I (10) (a) /9.** The next page provided is numbered **I (10) (a) /11.** The intervening page numbered **I (10) (a) /10** is missing or, more likely, has been deliberately extracted to avoid disclosure that Shaw and Faulkner saw and recorded evidence of the fact that bills were always delivered prior to the Client to Office Costs Transfers. Pages are the transcript of Shaw's cross examination on the point.

I 10(a)/11

The position of the manuscript note on the page suggests that some words appeared before it, again showing that Investigators knew that bills were always delivered prior to costs transfers

yes, I draw down the internet, my bank statement, & if a bit short, or if I know I am owed costs,

I do an estimate of total sum & transfer it over & at end of day I allocate & prepare the bills. I haven't got the time to do the transfers or M. hasn't.

I know exactly the amount I am able to take - they are billed to client.

& I have it in my mind.

You will be aware of £58,500 on account 1000 account.

No.

You are aware of your 1000 / legal aid a/c.

yes.

3 transfers, not decided on relevant client matter to which £58k relates - told by Mr Sampat.

That sounds odd. Not sure that is right. My understanding is that it is on ledger. Checked this with my accountant.

It is a requirement of the rules

It isn't actually. The LAB is your client. You don't have to allocate.

Rule 32(4).

~~[illegible]~~ 2/5/01, 3 transfers. £20K on 23/7/01 £20K, 29/1/02 £18K. Not allocated at time [illegible] since. That would be odd.

Q. Now, I want to ask you about an entry at the top of this page, which is "I" and then something, "10". "I10A9 in hand. Do you see that in the top right hand corner?

A. Yes.

Q. Is that in your writing?

A. It is, yes.

Q. Would you go over the page, please. Would you agree with me that the next page is I10A11? (Pause). Page 150 is I10A9. Page 151 is I10A11; correct?

A. Yes.

Q. Which would suggest that I10A10 has gone missing; right?

Page 105 and 106

A. Or I have misnumbered it.

Q. Or you have misnumbered it.

A. Yes.

Q. When did you number these?

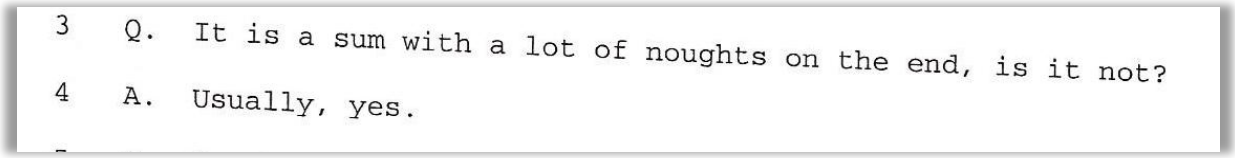
A. Before the final interview.

Q. So some time in July. The final interview is on the 21st July. You would have numbered these pages at some point before the 21st July 2004; is that right?

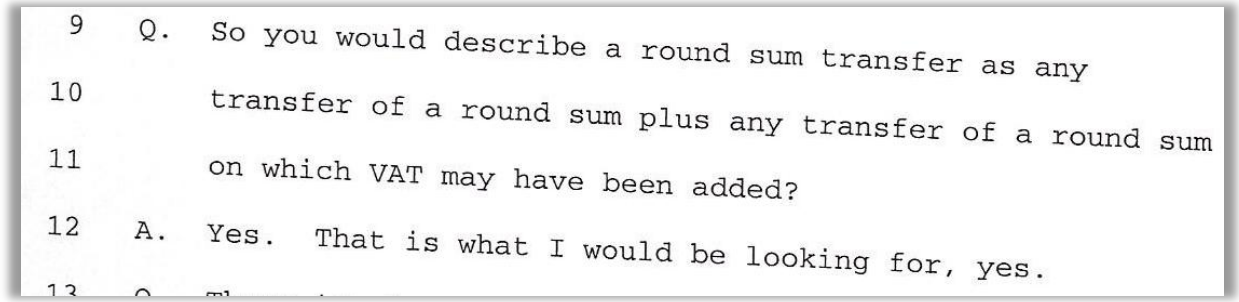
A. I would think I would have done. I cannot say for sure, could swear that I did. But that would be logical. That is probably when it was done.

f) IN THE HIGH COURT SHAW SAYS HE THINKS THE BREACH IS TRANSFERRING COSTS WITH A LOT OF NOUGHTS

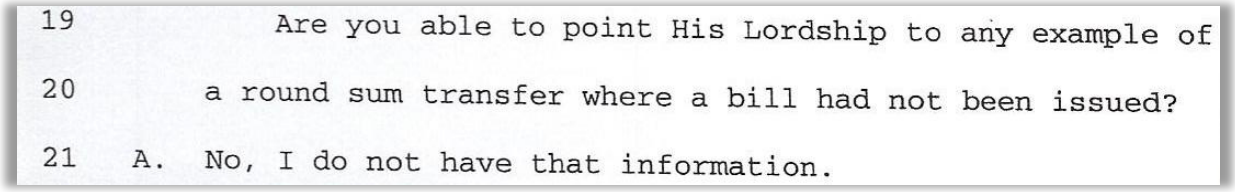
Shaw's evidence at the High Court trial confirmed his confusion about Rule 19(1). He believed that the breach was transferring costs with a lot of noughts



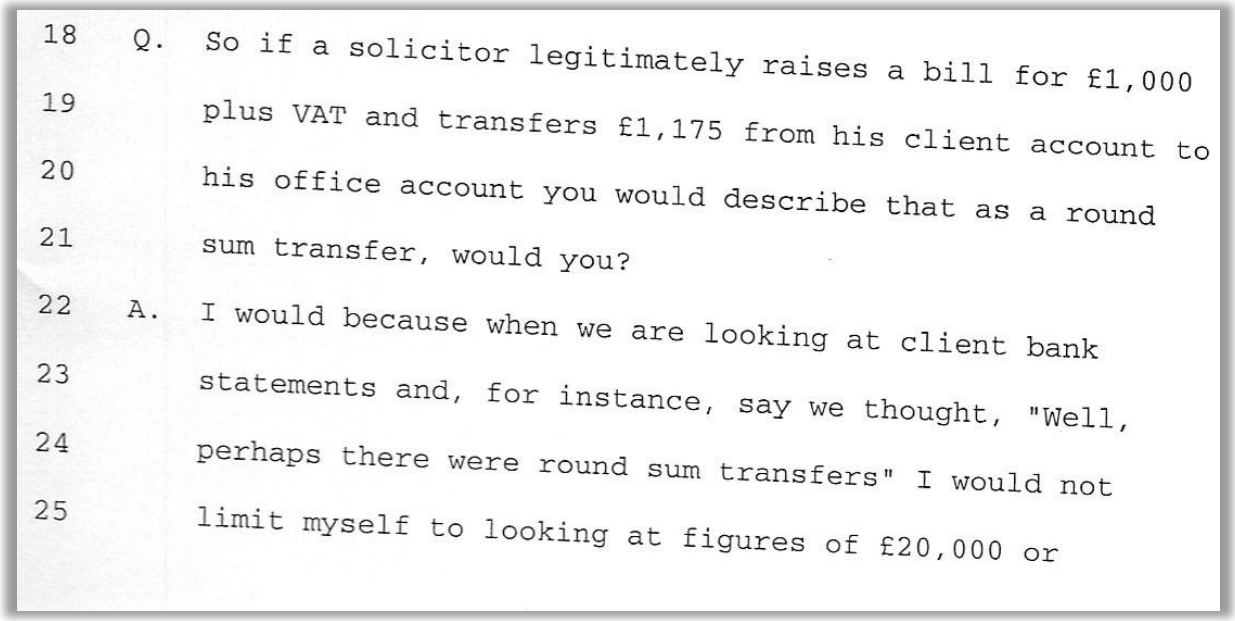
Q. It is a sum with a lot of noughts on the end, is it not?
A. Usually, yes.



Q. So you would describe a round sum transfer as any transfer of a round sum plus any transfer of a round sum on which VAT may have been added?
A. Yes. That is what I would be looking for, yes.



Are you able to point His Lordship to any example of a round sum transfer where a bill had not been issued?
A. No, I do not have that information.



Q. So if a solicitor legitimately raises a bill for £1,000 plus VAT and transfers £1,175 from his client account to his office account you would describe that as a round sum transfer, would you?
A. I would because when we are looking at client bank statements and, for instance, say we thought, "Well, perhaps there were round sum transfers" I would not limit myself to looking at figures of £20,000 or

£25,000. I would look indeed at figures of £1,000 or I would also be looking at figures of £1,175 as well because in my experience any solicitor who may be short of funds on office account might simply take £1,000 -- I have seen that many times -- without a delivery of the bill to the client or may indeed decide having raised the bill there should be VAT on it and therefore take £1,175. So we do look for both.

Q. So you would describe a round sum transfer as any transfer of a round sum plus any transfer of a round sum on which VAT may have been added?

A. Yes. That is what I would be looking [illegible]

system to you, was it?

A. Yes, she did. She actually turned the computer screen. Obviously the computer screen was facing Ms Sheikh and she was the other side of the desk, so she turned it round so that we could see that. And on the screen, we could see effectively the information that showed on page 184 that we have just been talking about.

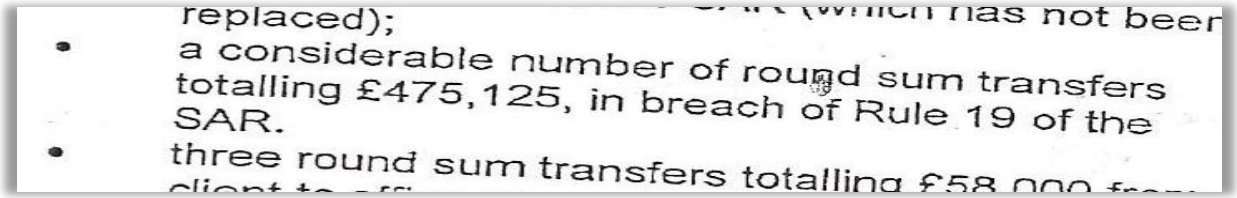
A. Yes, indeed. And to the extent that she showed me the screen and then how she did things, it did make slightly more sense to me I think than before the interview. But I do not think I would have said, "oh okay", anything of that sort.

Park J goes to some length explains the Rule 19 Breach at some length.

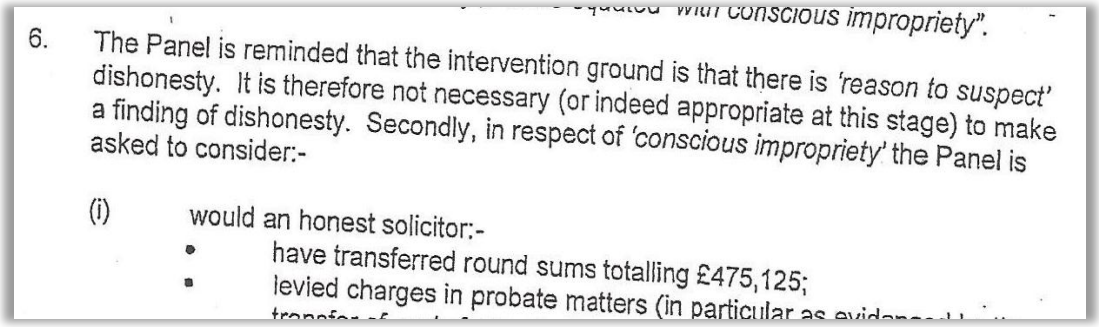
Why would a judge need to deliver a lesson in the Solicitors Account Rules to the Law Society during a High Court trial and why would a member of the public have to pay £368.,000 for it?

g)	**SARAH BARTLETT AND THE PANEL ALSO RELY ON THE MASTER OF THE ROLLS' DEFINITION OF THE BREACH I.E NOTE X (ROUND SUM TRANFERS) AND NOT ON RULE 19 (1)**

In the 2005 Sheikh Intervention Sarah Bartlett's Fraudulent Forensic Report to the Panel stated


replaced);
- a considerable number of round sum transfers totalling £475,125, in breach of Rule 19 of the SAR.
- three round sum transfers totalling £58,000

The Report also states

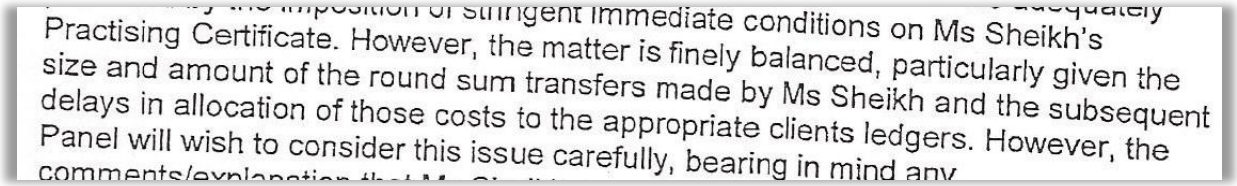

6. The Panel is reminded that the intervention ground is that there is *'reason to suspect'* dishonesty. It is therefore not necessary (or indeed appropriate at this stage) to make a finding of dishonesty. Secondly, in respect of *'conscious impropriety'* the Panel is asked to consider:-

(i) would an honest solicitor:-
- have transferred round sums totalling £475,125;
- levied charges in probate matters (in particular as

She is also using the Master of the Rolls' definition of the breach and not Rule 19(1)

Clearly, Bartlett is not referring to Rule 19 (1). She says

finely balanced


Practising Certificate. However, the matter is finely balanced, particularly given the size and amount of the round sum transfers made by Ms Sheikh and the subsequent delays in allocation of those costs to the appropriate clients ledgers. However, the Panel will wish to consider this issue carefully, bearing in mind any

If she was referring to a Solicitor who has transferred £475,125 without billing the Client, such a transgression cannot be finely balanced. It is grounds for immediate intervention and a strike off, to which the Solicitor would have no defence. The allegation is so serious that the Law Society should refer to the Solicitor to the criminal authorities because he may have committed theft.

But not if the Sarah Bartlett's definition of 'round sum transfers' is costs transfers ' which end with a zero' or on the Master of the Rolls' Note X

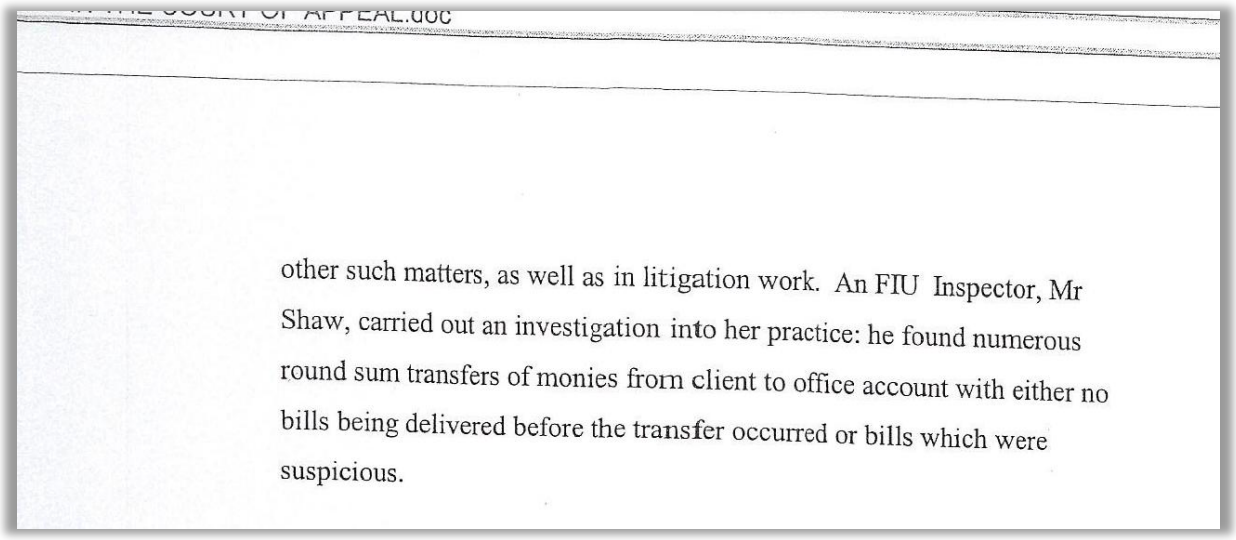
So, when Sarah Bartlett asks the Panel the question

Would an honest solicitor have transferred round sums totalling £475,125

The answer is definitely yes: every solicitor who has ever practiced in England and Wales and has earned fees has most certainly transferred costs which end with a zero – and that is several million of us.

h) DUTTON'S FRAUDULENT ADVICE ALSO REFERS TO THE MASTER OF THE ROLLS' DEFINITION OF THE BREACH I.E NOTE X (ROUND SUM TRANFERS) AND NOT ON RULE 19 (1)

The following is an extract from Dutton's Fraudulent Advice to the Law Society's High Profile Litigation Committee in which he is also relying on the Master of the Rolls' definition



other such matters, as well as in litigation work. An FIU Inspector, Mr Shaw, carried out an investigation into her practice: he found numerous round sum transfers of monies from client to office account with either no bills being delivered before the transfer occurred or bills which were suspicious.

In his evidence at the Solicitors Disciplinary Tribunal, Shaw finally admits that he had never made the allegation that transfers had not been made without first delivering bills to the Client: Counsel had made the allegation after him.

MISS WEEKES: The [inaudible] that is sometimes needed. Did you find someone who could interrogate the computer if you didn't know or want to do that?

MR SHAW: Well we could have done and had we had made the allegation – if I was going to make the allegation, for instance, that the bills did not exist at the time that the transfers were made then perhaps I would have done that.

MISS WEEKES: It was-

MR SHAW: But I don't think my-

MISS WEEKES: -[made by your counsel?] [inaudible] just help you.

MISS ROBERTSON: Would you let him finish his sentence?

MR SHAW: Yes.

MISS WEEKES: I will. It was made by your counsel which is why I'm asking you the questions.

MR SHAW: Yes. But counsel made these allegations or made these statements in the High Court.

MISS WEEKES: [They were listed?]?

MISS ROBERTSON: Just let him complete his answer.

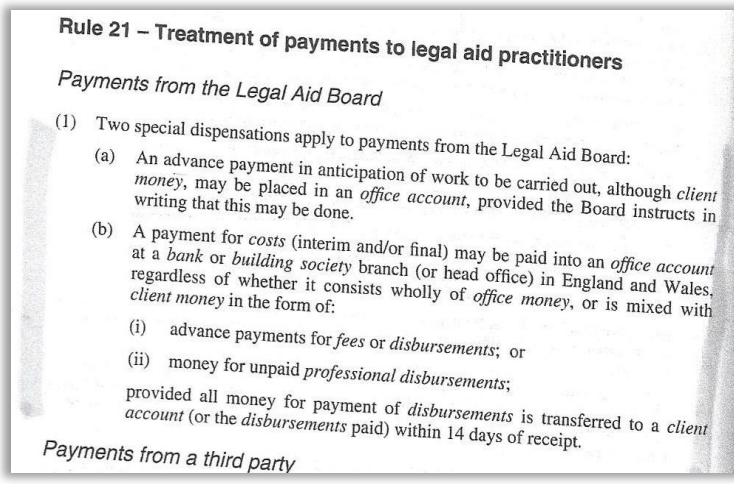
MR SHAW: In the High Court as I understand it anyway, significantly after the investigation had finished. If you look at the investigation report it says what it says but I don't – if you can tell me where it says that it alleges that these bills did not exist. The thing about this matter is it's moved on considerably from where it was in November of 2004 when the report was done. And clearly what we do as investigators is we establish beyond a reasonable doubt, or that's what we try to do, and obtain evidence to support the facts stated in the Forensic Investigation report. Now, that's what I did.

MISS WEEKES: The point [inaudible] interrupt you I just wanted you to know-

MR SHAW: Yes.

i) THE ROUND SUM TRANSFER ALLEGATION IN RELATION TO LEGAL AID MONEY

Rule 21 of the Solicitors Account Rules 1998 provides that the Round Sum Transfer Rule does not apply to Legal Services Commission Payment – obviously, because the Solicitor's costs are paid by the Legal Services Commission and he does not bill the Client.



Rule 21 – Treatment of payments to legal aid practitioners

Payments from the Legal Aid Board

(1) Two special dispensations apply to payments from the Legal Aid Board:

(a) An advance payment in anticipation of work to be carried out, although *client money*, may be placed in an *office account*, provided the Board instructs in writing that this may be done.

(b) A payment for *costs* (interim and/or final) may be paid into an *office account* at a *bank* or *building society* branch (or head office) in England and Wales, regardless of whether it consists wholly of *office money*, or is mixed with *client money* in the form of:

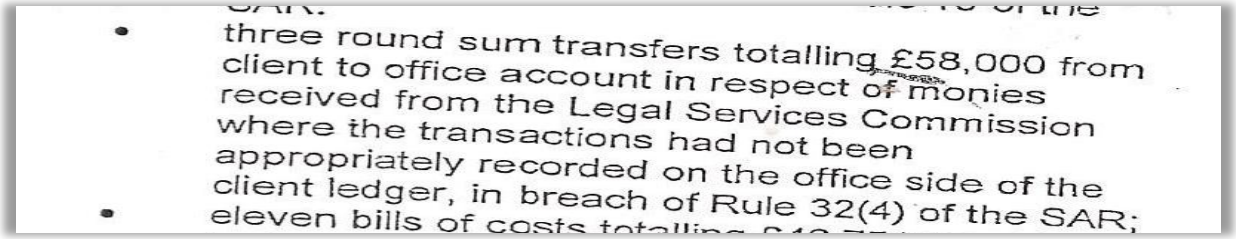
(i) advance payments for *fees* or *disbursements*; or

(ii) money for unpaid *professional disbursements*;

provided all money for payment of *disbursements* is transferred to a *client account* (or the *disbursements* paid) within 14 days of receipt.

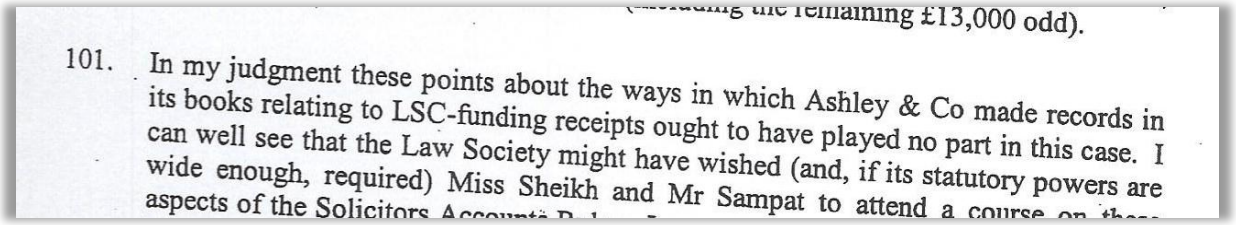
Payments from a third party

Sarah Bartlett's Fraudulent Forensic Report to the Panel stated



- three round sum transfers totalling £58,000 from client to office account in respect of monies received from the Legal Services Commission where the transactions had not been appropriately recorded on the office side of the client ledger, in breach of Rule 32(4) of the SAR;
- eleven bills of costs totalling

In Sheikh v Law Society (High Court 2005), Park J found



(including the remaining £13,000 odd).

101. In my judgment these points about the ways in which Ashley & Co made records in its books relating to LSC-funding receipts ought to have played no part in this case. I can well see that the Law Society might have wished (and, if its statutory powers are wide enough, required) Miss Sheikh and Mr Sampat to attend a course on these aspects of the Solicitors Account

Again, the Law Society rely on the Master of the Rolls' Note X and not on the relevant Solicitors Account Rules, which in this case was Rule 21

i)	**TREASON**

i)	**THE EXECUTIVE AND THE JUDICIARY SUBSTITUTE THE MASTER OF THE ROLLS NOTE X FOR RULE 19. DOES THAT MEAN THAT THEY DO NOT ACKNOWLEDGE PARLIAMENTARY SUPREMACY AND THEREBY GUILTY OF TREASON?**

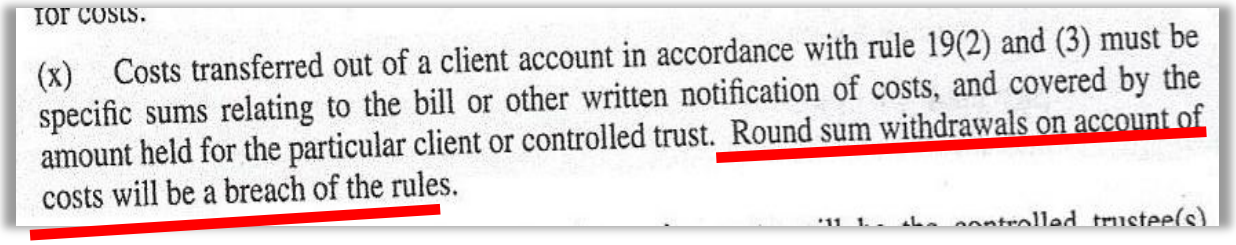
Professor Dawn Oliver writes

> But if the courts were to challenge parliamentary supremacy, then by definition we would have a tyranny of Parliament, which is Treason

150. As above

ii)	**THE EXECUTIVE AND THE JUDICIARY DO NOT ACKNOWLEDGE THE WORDS ' ON ACCOUNT' IN NOTE X. DOES THAT MEAN THAT THEY ARE THEY GUILTY OF TREASON?**

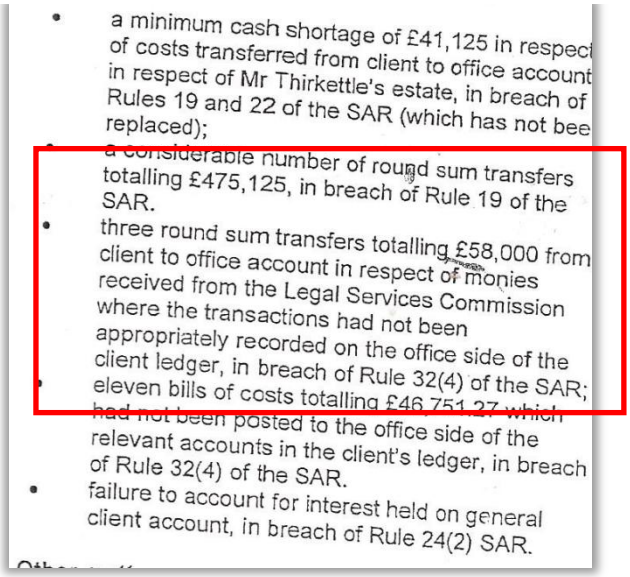
Note X of Rule 19 states



for costs.

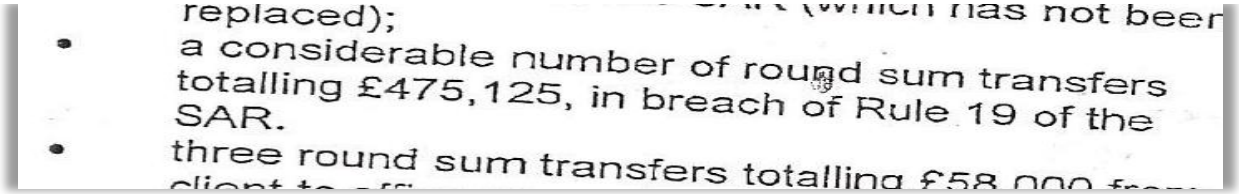
(x) Costs transferred out of a client account in accordance with rule 19(2) and (3) must be specific sums relating to the bill or other written notification of costs, and covered by the amount held for the particular client or controlled trust. Round sum withdrawals on account of costs will be a breach of the rules.

When referring to the Master of the Rolls Note X the Forensic Report omits the word 'on account'



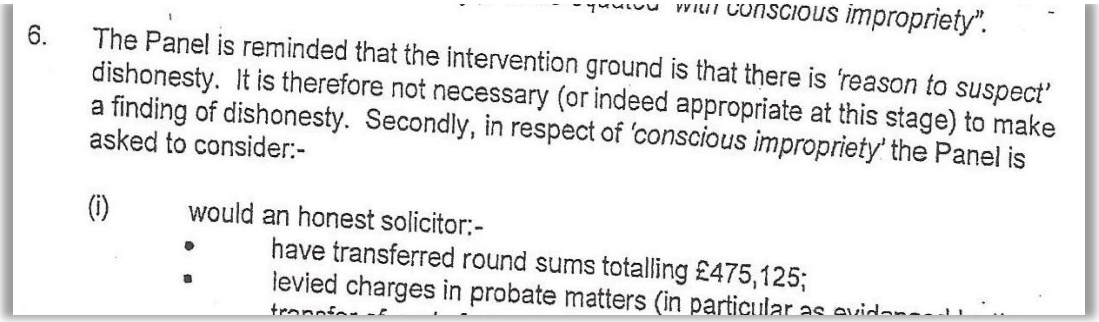
- a minimum cash shortage of £41,125 in respect of costs transferred from client to office account in respect of Mr Thirkettle's estate, in breach of Rules 19 and 22 of the SAR (which has not been replaced);
- a considerable number of round sum transfers totalling £475,125, in breach of Rule 19 of the SAR.
- three round sum transfers totalling £58,000 from client to office account in respect of monies received from the Legal Services Commission where the transactions had not been appropriately recorded on the office side of the client ledger, in breach of Rule 32(4) of the SAR;
- eleven bills of costs totalling £46,751.27 which had not been posted to the office side of the relevant accounts in the client's ledger, in breach of Rule 32(4) of the SAR.
- failure to account for interest held on general client account, in breach of Rule 24(2) SAR.

Sarah Bartlett's Fraudulent Forensic Report also omits the words ' on account'



replaced);

- a considerable number of round sum transfers totalling £475,125, in breach of Rule 19 of the SAR.
- three round sum transfers totalling £58,000 from

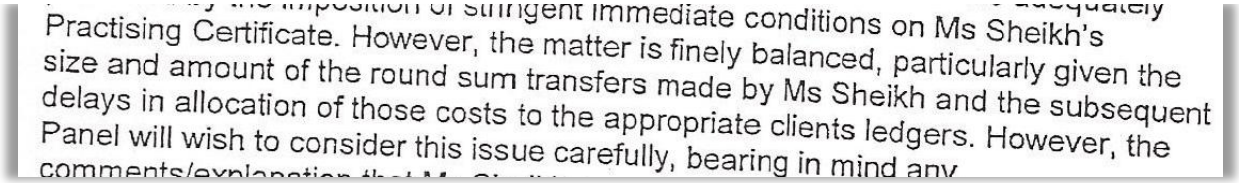


with conscious impropriety".

6. The Panel is reminded that the intervention ground is that there is *'reason to suspect'* dishonesty. It is therefore not necessary (or indeed appropriate at this stage) to make a finding of dishonesty. Secondly, in respect of *'conscious impropriety'* the Panel is asked to consider:-

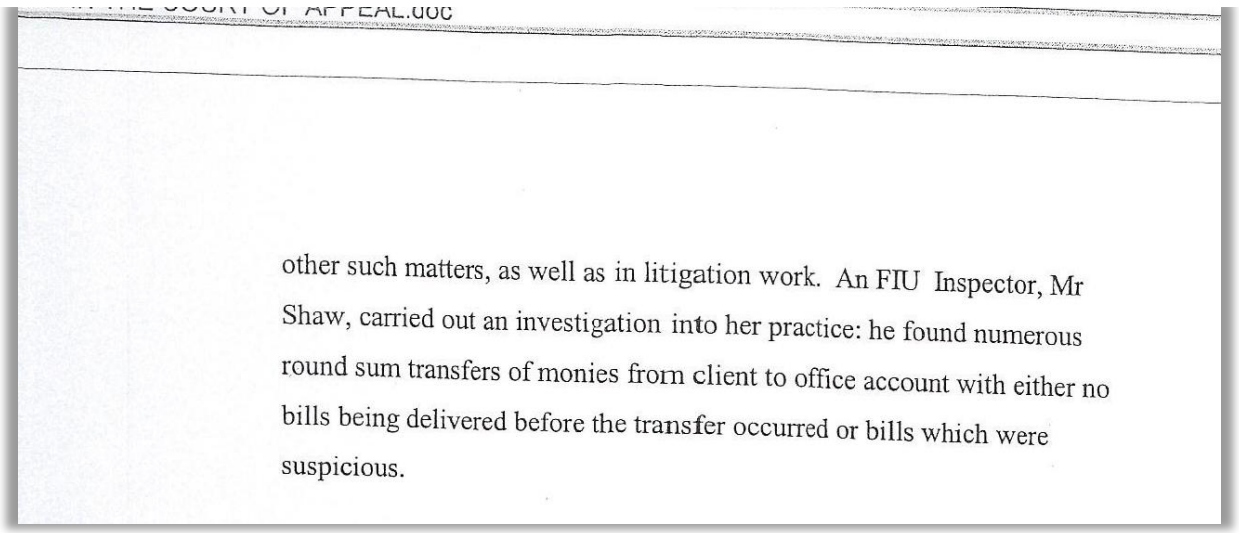
(i) would an honest solicitor:-

- have transferred round sums totalling £475,125;
- levied charges in probate matters (in particular as evidenced



the imposition of stringent immediate conditions on Ms Sheikh's Practising Certificate. However, the matter is finely balanced, particularly given the size and amount of the round sum transfers made by Ms Sheikh and the subsequent delays in allocation of those costs to the appropriate clients ledgers. However, the Panel will wish to consider this issue carefully, bearing in mind any comments/explanation that Ms Sheikh

Dutton omits the words ' on account' from his Fraudulent Advice to the Law Society's High Profile Litigation



IN THE COURT OF APPEAL.doc

other such matters, as well as in litigation work. An FIU Inspector, Mr Shaw, carried out an investigation into her practice: he found numerous round sum transfers of monies from client to office account with either no bills being delivered before the transfer occurred or bills which were suspicious.

151. Does that mean that they are guilty of treason?

iii) IS THE LAW SOCIETY AND THE JUDICIARY'S REFUSAL TO ACKNOWLEDGE RULE 21 (LEGAL COMMISSION MONEY) TREASON?

152. Self explanatory

k) HAVE THE LAW SOCIETY AND THE JUDICIARY BEEN AFFLICTED WITH THIRKETTLE BLINDNESS

i) THE FAILURE TO SEE RULE 19(1). Q153

The condition referred to as Thirkettle Blindness is discussed below. It appears to have applied throughout the case from Investigation to the European Court of Human Rights, with the exception of the High Court Hearing when vision was restored – at least to the Judge.

ii) THE FAILURE TO SEE THE WORDS 'ON ACCOUNT' IN NOTE X. Q154

Self explanatory

iii) THE FAILURE TO SEE RULE 21. Q155

Self explanatory

l) DID THE MASTER OF THE ROLLS' DRAFT RULE X TO COMMIT THE INTERVENTION FRAUD, OR IS THE MASTER OF THE ROLLS JUST GUILTY OF SHODDY DRAFTING? Q156

The Master of the Rolls, who is second in seniority only to the Lord Chief Justice, is responsible for the drafting of the Solicitors Account Rules. The following table lists the incumbents since 1941.

The Master of the Rolls' Note X was in effect in or before 1932 , and the wording has remained unchanged since then. How is it possible that one of most learned lawyers in the country could have been responsible for such shoddy drafting of secondary legislation and for his shoddy drafting to have gone unnoticed for over 80 years by his equally learned successors?

Master of The Rolls	From	To
Sir Raymond Evershed (The Lord Evershed from 1956)	1 June 1949	19 April 1962
The Lord Denning	19 April 1962	29 September 1982
Sir John Donaldson (The Lord Donaldson of Lymington from 1988)	30 September 1982	1 October 1992
Sir Thomas Bingham	1 October 1992	4 June 1996
The Lord Woolf	4 June 1996	6 June 2000
The Lord Phillips of Worth Matravers	6 June 2000	3 October 2005
Sir Anthony Clarke	3 October 2005	30 September 2009

(The Lord Clarke of Stone-cum-Ebony from May 2009)		
The Lord Neuberger of Abbotsbury	1 October 2009	30 September 2012
Lord Dyson	1 October 2012	2 October 2016
Sir Terence Etherton (The Lord Etherton from December 2020)	3 October 2016	11 January 2021
Sir Geoffrey Vos	11 January 2021	Incumbent

2 THE CASH SHORTAGE ALLEGATION/ ROUND SUM TRANSFER ALLEGATION. AFTER SEEING THE £35,000 INTERIM BILL AND COSTS TRANSFER ON THIRKETTLE THE LAW SOCIETY, BARRISTERS AND JUDGES WERE AFFLICTED FROM TIME TO TIME BY AMAUROSIS FUGAX OR TEMPORARY VISION LOSS WHICH STOPPED THEM FROM SEEING THE 16 ARCH LEVER FILES OF WORK SUPPORTING THE BILL ('THIRKETTLE BLINDNESS")

1) OTHER CASES OF UNEXPLAINED AFFLICTIONS: THE SWEATING SICKNESS 1529 TUDOR ENGLAND, THE DANCING PLAGUE OF 1518, THE WRITING TREMOR EPIDEMIC OF 1892, THE TANGANYIKA LAUGHING EPIDEMIC 1962.

Throughout history there have been unexplained illnesses which have plagued entire communities and countries. The following is an except from German author Euricius Cordus (1486-1535) about the Sweating Sickness which afflicted Tudor England:

> Beginning in 1485, five epidemics plagued England, Germany and other European countries. But the epidemic's origins and even the identity of the disease are still murky.
>
> There was good reason to be scared of sweating sickness. It came on without any warning and did not seem preventable. People would feel a sudden sense of dread, then be overtaken with headache, neck pains, weakness and a cold sweat that covered the entire body. Fever, heart palpitations and dehydration followed. Within three to 18 hours, 30 to 50 percent of people afflicted with the illness were dead.
>
> It's unclear who first contracted sweating sickness, but some historians believe it was brought to England by the mercenaries Henry's father hired to seize England's throne for him and his son. The controversial move ended the War of the Roses in 1487, but questions about Henry VII's legitimate claim to the throne—and whether the foreign soldiers he imported to England to fight on his behalf brought sweating sickness with them—persist to this day.
>
> Regardless of who contracted it first, sweating sickness soon became a regional epidemic. It was "a new kind of sickness," wrote Richard Grafton, the king's printer, "which was so sore, so painful, and sharp, that the like was never heard of to any man's remembrance before that time."
>
> That wasn't exactly true. England had already survived history's most fearful epidemic. Between 1346 and 1353, the Black Death—an unprecedented wave of bubonic plague—wiped out as much as 60 percent of the world's population and killed over 20 million people in Europe alone. But sweating sickness does not seem to have been related to plague. It had no skin symptoms and it popped up randomly in different locations, always after a period of extended rainfall or flooding and usually in the very rich or the very po

The Dancing Plague of 1518, the Writing Tremor Epidemic of 1892 and the Tanganyika Laughing Epidemic, 1962 are other such ailments.

2) WHAT WAS THIRKETTLE BLINDNESS AND WHO SUFFERED FROM THE CONDITION

Thirkettle Blindness occurred between 2004 -2019 starting with my 'intervention' .

The illness last surfaced in 2019 when the Attorney General procured a lifetime ban against me from making applications to court Sweating Sickness mainly affected the wealthy and cultured aristocratic classes of the Tudor Court. Thirkettle Blindness seems to be confined to the privileged and highly educated classes but, distinguishing it from any other epidemic, the condition is confined to only one profession, namely lawyers.

The relevant materials are at Part **1D Page 1152- 1319** Shelley's Fraudulent Costs Report **Page 1171-1202.** Dutton's outright lie that there had been an adjudication **Page 1459**

3) THE LAW SOCIETY'S INVESTIGATORS UNAFFLICTED BY THIRKETTLE BLINDNESS

Johnson, Shaw, Patrick and Faulkner, the four investigators, all saw the 16 arch lever files on Thirkettle from February 2004 until the last interview in July 2004. They took copies of the files.

At the final interview, Shaw was suddenly caught the Thirkettle Blindness. He told me that was going to report the transfer of costs as a Cash Shortage. I was bemused because he made the statement with an enormous smile on his face.

4) CALVERT , MIDDLETION, BARTLETT AND THE PANEL SUFFER FROM THIRKETTLE BLINDNESS

Thirkettle Blindness had set in after the investigation had concluded and all those involved with drafting reports for the Panel , as well as the Panel, could not see the 16 Arch lever files.

5) THIRKETTLE BLINDNESS DISAPPEARS DURING THE HIGH COURT HEARING

I cannot be sure whether or not my legal team, Treverton Jones and Paul Saffron, suffered from the condition.

There seemed to be some confusion at trial, so I took it upon myself to bring all the files to court and put them on the table at the front of the court, so that the volume of the work could be seen.

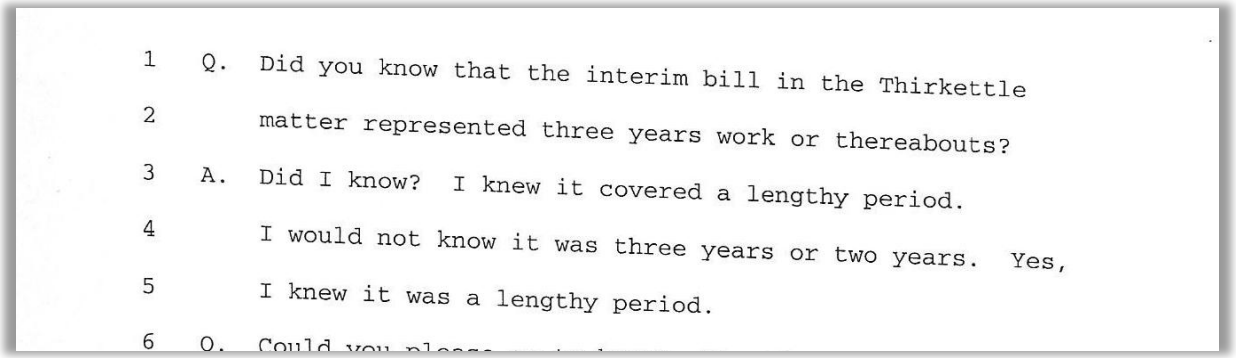
6) TIMOTHY DUTTON SUFFERS FROM THIRKETTLE BLINDNESS WHEN DRAFTING HIS FRAUDULENT ADVICE TO THE LAW SOCIETY'S HIGH PROFILE LITIGATION COMMITTEE

Timothy Dutton suffered from Thirkettle Blindness when he was drafting his Advice to the Law Society's High Profile Litigation Panel a few months after the High Court Trial

7) THE LAW SOCIETY'S LEGAL TEAM, MY LEGAL TEAM , LORD JUSTICE CHADWICK, LADY JUSTICE HALLETT, LORD DYSON, LORD JUSTICE MOORE BICK , LORD JUSTICE TUCKEY ALL SUFFER FROM THIRKETTLE BLINDNESS

The Lord Justices of Appeal suffered seriously from Thirkettle Blindness . The Thirkettle Bill covered a 4 years work. As the condition prevented the Judges from seeing all but the interim bill and my calculations for it, they 'found' that it only covered 3 weeks work.

In the High Court, Shaw acknowledged that the work on Thirkettle covered a lengthy period.



Q. Did you know that the interim bill in the Thirkettle matter represented three years work or thereabouts?

A. Did I know? I knew it covered a lengthy period. I would not know it was three years or two years. Yes, I knew it was a lengthy period.

Q. Could you pleas

that?

A. I do, yes.

Q. Just flip over the page and have a look at page 196 as well. These are breakdowns of the Thirkettle interim bill that you received when you were talking to Miss Sheik and Mr Sampart, is that correct?

A. That is right, that was on 21st July last year.

Q. We see from that that there is the hourly rate of £200 which we have heard about already. 144 hours at that makes £28,800 at the top of 195. Then 75 letters written, 205 letters received; do you see that?

A. I do, yes.

Q. They are costed at £15 and £7.15 respectively and some telephone calls making a grand total of £31,530 on that calculation?

A. Correct.

Q. We see there that there are in fact there 280 letters which have been charged for, 75 going out and 205 coming

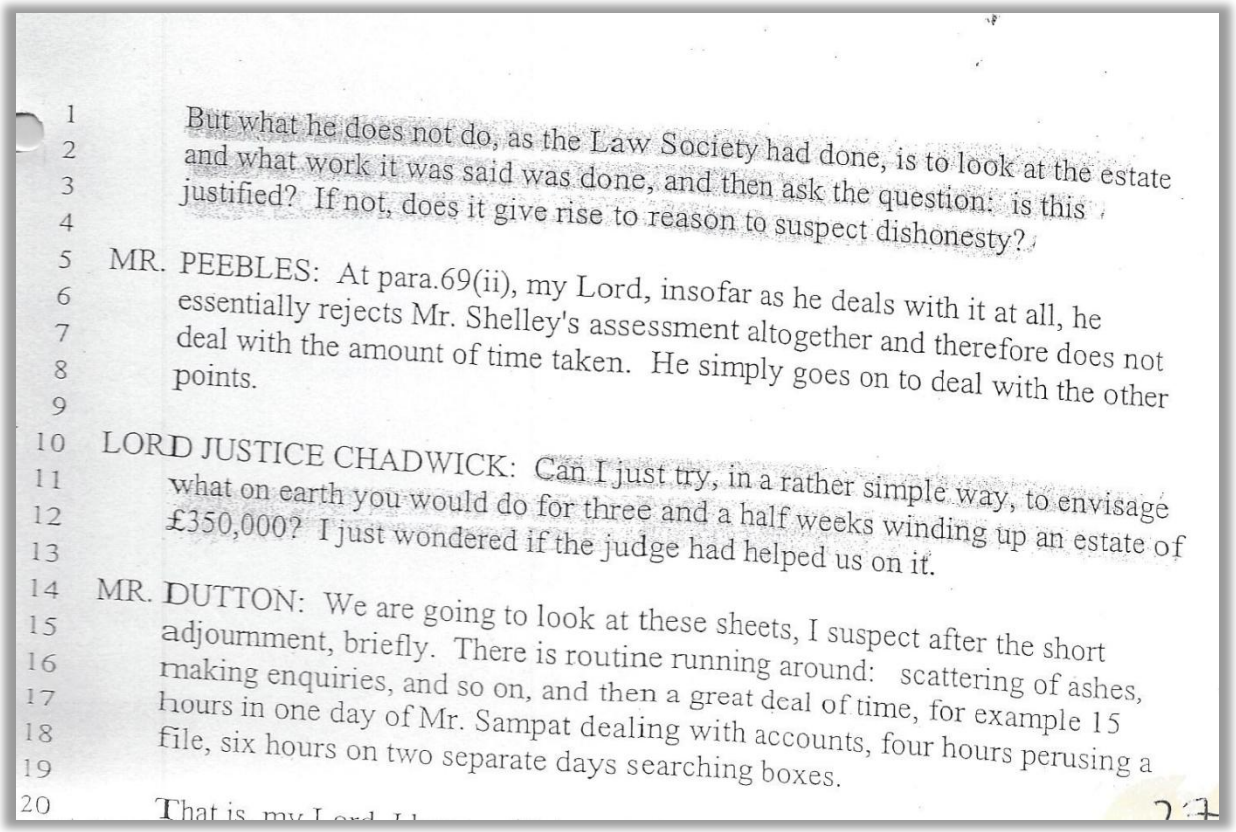
From the Court of Appeal :

LORD JUSTICE CHADWICK: Does he explain why he was satisfied that you could take three and a half weeks to wind up this estate?

MR. DUTTON: No. He does say, if one looks at 66:

"... the deceased had died in June 1999... The estate had been in administration for some three years by the time of the transfer. A considerable amount of work had been done..."

BEVERLEY F NUNNERY & CO



But what he does not do, as the Law Society had done, is to look at the estate and what work it was said was done, and then ask the question: is this justified? If not, does it give rise to reason to suspect dishonesty?

MR. PEEBLES: At para.69(ii), my Lord, insofar as he deals with it at all, he essentially rejects Mr. Shelley's assessment altogether and therefore does not deal with the amount of time taken. He simply goes on to deal with the other points.

LORD JUSTICE CHADWICK: Can I just try, in a rather simple way, to envisage what on earth you would do for three and a half weeks winding up an estate of £350,000? I just wondered if the judge had helped us on it.

MR. DUTTON: We are going to look at these sheets, I suspect after the short adjournment, briefly. There is routine running around: scattering of ashes, making enquiries, and so on, and then a great deal of time, for example 15 hours in one day of Mr. Sampat dealing with accounts, four hours perusing a file, six hours on two separate days searching boxes.

That is, my Lord, [illegible]

8) LORD BINGHAM, LORD CARSWELL, LORD RODGERS SUFFER FROM THIRKETTLE BLINDNESS IN THE HOUSE OF LORDS

The Law Lords in the House of Lords appeared to be untroubled that their colleagues in the Court of Appeal had suffered from the blindness from seeing the 16 arch lever files.

9) SIR NICHOLAS BRATZA SUFFERS FROM THIRKETTLE BLINDNESS IN THE EUROPEAN COURT OF HUMAN RIGHTS

Thirkettle Blindness travelled to Europe in 2010 affecting the President of the Fourth Section of the European Court of Human Rights when it came to determine my complaint .

10) THE SOLICITORS DISCIPLINARY TRIBUNAL INFECTED WITH THIRKETTLE BLINDNESS WHICH HAD NOW MUTATED INTO PARALYSIS OF THE UPPER LIMBS

At my Solicitors Disciplinary Tribunal hearing at which I was not permitted to cross examine any witnesses, produce documents, require the Law Society to produce documents or require the Law Society to particularise and clarify its allegations, the Tribunal Members contracted a variant of Thirkettle Blindness which caused them to suffer paralysis of their arms and hands. As I had done at the High Court Hearing, I placed the Thirkettle Files in front of them to demonstrate that the Cash Shortage Allegation was fraudulent. The Tribunal Members were unable to raise their hands and open the files, so they could neither see them not feel the volume of them. They 'found' there was a cash shortage.

W SEPARATION OF POWERS. THE CONSTITUTIONAL REFORM ACT 2005. THE SUPREME COURT 2009.

1. SEPARATION OF POWERS PREVENTS TYRANNY

Every constitutional lawyer is familiar the doctrine of the separation of powers as expounded by Montesquieu: 'When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty... there is no liberty if the powers of judging is not separated from the legislative and executive... there would be an end to everything, if the same man or the same body... were to exercise those three powers.'

A contemporary definition by Richard and Gay Oonagh The Separation of Powers' House of Commons Library is that the doctrine 'requires that the principal institutions of state— executive, legislature and judiciary—should be clearly divided in order to safeguard citizens' liberties and guard against tyranny.

2. THE CONSTUTIONAL ARRANGMENTS PRIOR TO 2009

Until 2009, the Law Lords sat in the legislature as well as acting as the highest appeal court in the UK the House of Lords.

These constitutional arrangements were considered to violate the principal of separation of powers because the Law Lords, as the legislature, would enact legislation and, as the Judiciary, they would interpret and apply the legislation they had enacted. The Constitutional Reform Act 2005, which provided for the creation a separate Supreme Court, was seen as a solution to the conflict.

The problem could not be more markedly demonstrated than in the present case.

The Law Lords involved in the 1972-1974 Parliamentary Debates were Lord Gardiner, the Lord High Chancellor of Great Britain 1964 –1970, Lord Elwin Jones, Lord High Chancellor of Great Britain 1974-1979, Lord Hailsham of Saint Marylebone, Lord Chancellor 1970 – 1974, Lord Denning , Master of the Rolls.

The problem manifested itself in several ways:

1) The Solicitor's intervention challenge would be ultimately heard by the Law Lords in the House of Lords.

2) The Solicitor's appeal against a decision made by the Solicitors Disciplinary Tribunal would be heard by the Master of the Rolls in the Administrative Court

3) The Master of the Rolls was responsible for drafting secondary legislation used in the disciplining of solicitors, namely the Solicitors Account Rules

4) In appeals which came before the Master of the Rolls in the Administrative Court where the Solicitors was accused of Account Rule breaches, the Master of the Rolls would be interpreting and applying legislation which he himself had drafted.

3. DID ANAL SHEIKH V THE LAW SOCIETY (HOUSE OF LORDS 2007) VIOLATE THE PRINCIPLE OF SEPARATION OF POWERS?

157. My application for permission to appeal from the Court of Appeal's decision was determined by Lord Bingham, Lord Rodgers and Lord Carswell who refused permission on paper on the ground that there was no public importance. Is the House of Lords' decision unlawful because it was made in violation of the principle of separation of powers?

4. IS THE PRINCIPLE OF SEPARATION OF POWERS VIOLATED IN SOLICITORS' CASES DETERMINED BY THE MASTER OF THE ROLLS?

158. Referred to above

5. ARE ALL INTERVENTIONS BASED ON ALLLEGATION OF BREACH OF THE ROUND SUM RULE UNLAWFUL, WHETHER OR NOT CHALLENGED, BECAUSE OF THE MASTER OF THE ROLLS' SHODDY DRAFTING OF NOTE 1 RULE 19

159. Referred to above and at **Page 57-58**

6. IS THE MASTER OF THE ROLLS PERSONALLY RESPONSIBLE FOR THE SUFFERING, LOSS AND SUICIDES OF SOLICITORS WHO HAVE HAD TO FACE THE ALLEGATION OF BREACH OF THE ROUND SUM TRANSFER RULE?

160. As above

27 September 2023

Miss Anal Sheikh