[APPROVED]

THE HIGH COURT

[2026] IEHC 380

Record No. 2026 42 SA

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 85 OF THE LEGAL SERVICES REGULATION ACT 2015

AND IN THE MATTER OF RONAN O'BRIEN, A LEGAL PRACTITIONER, PREVIOUSLY PRACTISING AS RONAN O'BRIEN & COMPANY SOLICITORS, 69 CHURCH STREET, CAVAN, COUNTY CAVAN

BETWEEN

THE LAW SOCIETY OF IRELAND

APPLICANT

AND

RONAN O'BRIEN

RESPONDENT

***Ex tempore* JUDGMENT of Mr Justice David Barniville, President of the High Court, delivered on the 11th day of June 2026**

1. Introduction

1. This is my judgment on an application brought by the Law Society (the "Society" or the "Applicant") for various orders in relation to the Respondent solicitor, Ronan O'Brien (the "Respondent"). The orders are sought by the Law Society under s. 82(2) and s. 85(7) of the Legal Services Regulation Act 2015 (the "2015 Act") and under Order 53D of the Rules of the Superior Courts (as amended) (the "RSC" or the "Rules").
2. The orders sought by the Society are an order pursuant to s. 85(7)(f) of the 2015 Act that the Respondent's name be struck off the Roll of Solicitors, an order pursuant to s. 85(7)(h)(iii) of the 2015 Act that the Respondent pay the Society's costs of the Legal Practitioners Disciplinary Tribunal (the "LPDT" or the "Tribunal") Inquiry in the measured sum of €10,114.50, and an order pursuant to s. 85(8) of the 2015 Act that the Respondent pay the whole of the Society's costs for the application that comes before this Court, such costs to be measured by this Court or to be adjudicated by a Legal Costs Adjudicator in default of agreement. The sum proposed by the Society in respect of the measured costs of this application is €3,978.
3. There has been no appearance by or on behalf of the Respondent for this application this morning. I was satisfied, having considered the affidavit of service of Áine Skelly, sworn on 27 May 2026, that the Respondent was served with the papers for this application on 18 May 2026. Service was attempted by the Society first by registered post sent to an address that the Respondent had previously given as his home address. However, the registered post was marked "*undelivered*" by An Post, and was returned to the Society. The Respondent was also served by email on 18 May 2026, which was sent to an email address previously used by the Respondent to communicate with the Society and with the High Court President's Registrar in previous High Court proceedings in relation to the Respondent, bearing record number 2024 40 SA. Having considered the affidavit of service, I was satisfied that the Respondent had been properly served with the papers for this application, and that it was appropriate for the Society to proceed with the application this morning.

2. Relevant Statutory Provisions

4. I will first mention the relevant statutory provisions that are applicable to this application. The first section to consider is s. 50 of the 2015 Act. That section defines "*misconduct*" by legal practitioners. There are three provisions is s. 50(1) of the 2015 Act which are relevant to this application. Those provisions are s. 50(1)(a), (e) and (h). Section 50(1) states that:

> "*For the purposes of the 2015 Act, an act or omission of a legal practitioner may be considered as constituting misconduct where the act or omission:*
>
> > *"(a) involves fraud of dishonesty in the case of a solicitor…*
> >
> > *(e) involves a breach of the Solicitors Acts 1954-2015, or any regulations made under those acts…*
> >
> > *(h) is likely to bring the solicitors profession into disrepute…*"

5. The provisions governing the conduct of inquiries by the Tribunal are contained in s. 81 of the 2015 Act. Section 81(8) of the 2015 Act provides as follows:

> "*(8) Having conducted the inquiry, the Disciplinary Tribunal shall make a determination whether or not, on the basis of the evidence properly before it, each act or omission to which the inquiry relates constitutes misconduct and, in that event, make a determination as to whether the issue of sanction should be dealt with pursuant to subsection (1) or (2) of section 82.*"

6. Section 82(1) of the 2015 Act provides for the circumstances in which the Tribunal may impose one or more sanctions on a legal practitioner, following a determination by the Tribunal under s. 81(8) of the 2015 Act that there has been misconduct on the part of the legal practitioner and that the issue of sanction should be dealt with pursuant to that section. Section 82(1) deals with sanctions falling short of suspension, restriction or prohibition.
7. Section 82(2) deals with more serious sanctions. It states as follows:

> *"(2) Where, pursuant to the holding of an inquiry under this Part, the Disciplinary Tribunal makes a determination under section 81(8) that there has been misconduct by a legal practitioner and determines that the issue of sanction should be dealt with pursuant to this subsection, the Disciplinary Tribunal shall make a recommendation to the High Court that the Court make one or more than one of the orders specified in section 85(7).*"

8. Section 85 of the 2015 Act deals with the consideration of a disciplinary matter by the High Court where it has been referred to it by the Tribunal. Section 85(3) provides:

> *"…the Court shall, having considered (where applicable) the recommendation of the Disciplinary Tribunal under section 82(2) and given each party who was a party participating in the inquiry of the Disciplinary Tribunal an opportunity to appear to make submissions in connection with the matter, decide upon the sanction to be imposed on the legal practitioner."*

9. Therefore, it is the Court that decides on the sanction to be imposed on the legal practitioner, having considered, amongst other things, the recommendation by the Tribunal under s. 82(2) of the 2015 Act.
10. Under s. 85(7) of the 2015 Act, the Court may make one or more orders by way of sanction imposed on a legal practitioner, and in this case, on a solicitor, who has had findings of misconduct made against him. There are two relevant subsections in s. 85(7) of the 2015 Act for the purposes of this application. They are s. 85(7)(f) and (h).
11. The sanction under s. 85(7)(f) is:

> *"(f) where the legal practitioner is a solicitor, that the name of the solicitor be struck off the roll of solicitors…"*

12. Under s. 85(7)(h)(iii), the Court may order the legal practitioner to:

> "*(iii) pay the whole or a part of the costs of the Disciplinary Tribunal or of any person making submissions to it or appearing before it, in respect of the inquiry concerned (which costs shall be assessed by a Legal Costs Adjudicator in default of agreement)…*"

13. Finally, s. 85(8) is also relevant. Under that subsection:

> " *…the Court may in addition—*
>
> *(a) make such order as to costs incurred in the proceedings before it and the Legal Practitioners Disciplinary Tribunal as the Court thinks fit…*".

3. Court's Approach to Application

14. As this is an application by the Law Society for orders giving effect to a determination and recommendation of the Tribunal, it is important to set out the approach that the Court is required to take on such an application. I recently considered the required approach in a case in which the Legal Services Regulatory Authority (the "LSRA" or the "Authority") sought orders on foot of a determination and recommendation of the Tribunal, *The Legal Services Regulatory Authority v Edward O'Brien* [2026] IEHC 348, in which I gave judgment on 19 May 2026. In the application before me this morning, it is the Society and not the Authority that brings the application. However, the principles to be applied are identical. In *Edward O'Brien*, I considered, in particular, the decision of the Supreme Court in *Law Society v Coleman* [2018] IESC 80 and various dicta of McKechnie J in his judgment in that case. I was satisfied that the *Coleman* case set out the principles which this Court is required to adopt in considering whether to make orders on foot of a determination and recommendation of the Tribunal. As stated by McKechnie J when he was considering the Court's role in imposing sanction under the previous regime under the Solicitors (Amendment) Act 1960, as further amended by the Solicitors (Amendment) Act 1994, the Court must be satisfied, on the basis of the material properly before it, that the Tribunal was entitled as a matter of law to make the findings which it did. McKechnie J stated at para. 60:

> "*Precisely how and in what way* [the Court] *conducts this evaluation is not germane to this appeal. When it comes to sanction or penalty however, the Tribunal has no power to make any findings: it simply makes a recommendation.*" (para. 60)

15. McKechnie J continued (at para. 61):

> "*There is no question of* [the Court] *being bound by an opinion expressed or by a recommendation made by the Tribunal… As the case law shows, the High Court has on several occasions departed from the recommendations made and/or have refused to endorse the reliefs sought, by the Society. Even where granting such relief however, it is clear that in all cases the ultimate arbiter is the court."* (para. 61)

16. That is the position on this application. While the Tribunal has made a recommendation as to sanction, the ultimate arbiter in terms of deciding what the relevant sanction should be is the Court.

4. **Relevant Legal Principles: Sanctions**

17. In determining the appropriate sanction to be imposed in this case, the Court also has to apply the relevant legal principles applicable to the imposition of sanctions under the disciplinary regime for legal practitioners. Those principles were previously set out by Kelly P in *Law Society v D'Alton* [2019] IEHC 177. I adopted those principles in full in my judgment in *Law Society v Corrigan* [2023] IEHC 389, and again in my recent judgment in the *Edward O'Brien* case. As stated by Kelly P in *D'Alton*, the position is as follows:

> "*In approaching the question of penalty I have to have regard to:*
>
> *(a) the protection of the public;*
>
> *(b) the maintenance of the reputation of the solicitors' profession 'as one in which every member of whatever standing, may be trusted to the ends of the earth (per Bingham M.R.)'; [in Bolton v. Law Society [1994] 1 W.L.R. 512];*
>
> *(c) the punishment of the wrongdoer;*
>
> *(d) the discouragement of other members of the profession who might be tempted to emulate the behaviour of the wrongdoer and;*
>
> *(e) the concept of proportionality. The sanction must be proportionate and appropriate*". (para. 33)

18. As I confirmed in *Edward O'Brien*, and as I now confirm in this case, these are the principles applicable to the appropriate sanction to be imposed on a legal practitioner under the new regime under the 2015 Act. I intend to apply those principles to the facts of this application. I now turn to those facts.

5. Relevant Facts and Background to this Application

19. The facts of this application are set out in the grounding affidavit of Jonathan White, solicitor in the Regulation Department of the Law Society. The Respondent, Ronan O'Brien, was admitted and enrolled on the Roll of Solicitors on 5 May 2009 and formerly carried on practice as the principal in the firm of Ronan O'Brien & Company Solicitors, 69 Church Street, Co. Cavan. He was, however, suspended from practice by Order of this Court made on 29 April 2024.
20. A complaint was made by two clients of the Respondent to the Authority, and on foot of that complaint, the Authority requested the Society to conduct an investigation into the Respondent. Details of that investigation are set out in an affidavit sworn by Stephanie Furey, Investigating Accountant in the Regulation Department of the Law Society, on 16 July 2024. Ms Furey's affidavit was sworn in support of the Society's application pursuant to s. 77 of the 2015 Act for an inquiry by the Tribunal pursuant to s. 81 of that Act.
21. An application was made on 17 July 2024 by the Law Society to the Tribunal for an inquiry to be held in relation to the Respondent. That application was grounded on Ms Furey's affidavit. It is unnecessary for me to recite in any great detail the contents of that affidavit. It is sufficient to note that Ms Furey provided significant details in relation to the investigation carried out by her. Ms Furey referred to and exhibited the report she prepared on foot of that investigation into the Respondent dated 16 April 2024. Ms Furey's report was highly relevant to the Court in determining the suspension application in relation to the Respondent on 29 April 2024. At the conclusion of her affidavit, Ms Furey set out a series of allegations of misconduct against the Respondent at para. 45(a)-(j) of her affidavit. Those allegations formed the basis on which the Society sought an inquiry to be carried out by the Tribunal into the Respondent.

6. <u>The Inquiry</u>

22. The Tribunal conducted its Inquiry and held hearings on 29 April 2025, 17 June 2025 and 10 September 2025. The Respondent attended the hearing of the Inquiry on the first date. He made a series of admissions at the outset of the Inquiry. The allegations which the Respondent accepted were all but two of the allegations set out in Ms Furey's affidavit. The allegations at para. 45(a) and para. 45(i) were withdrawn following the admissions made by the Respondent.
23. In addition to the admissions made by the Respondent, the Tribunal also heard evidence from Ms Furey. That evidence was not contested by the Respondent. The Tribunal then heard submissions on behalf of the Society by Elaine Finneran BL. The Tribunal also had the benefit of the advice of its legal assessor, Frank Beatty SC. The Tribunal then adjourned for a brief period before returning to give its decision on the question of misconduct. I will return to the precise findings that the Tribunal made on the question of misconduct when I turn to the Determination and Recommendation made by the Tribunal following the Inquiry. Suffice to say, the Tribunal made findings of misconduct against the Respondent on the basis of his admissions and the evidence of Ms Furey in respect of all of the outstanding allegations against him.
24. At the request of the Respondent, the Tribunal adjourned the question of sanction to 17 June 2025 as the Respondent wished to engage another legal practitioner to make submissions in mitigation on his behalf. However, the Respondent did not appear before the Tribunal on that day. The Tribunal was satisfied that the Respondent was aware that the matter was before the Tribunal on that date. However, in what it described as "*an abundance of caution*", it decided not to proceed on that date but to adjourn the hearing on sanction to the 10 September 2025.
25. Again, the Respondent did not appear before the Tribunal on that adjourned date. The Tribunal was satisfied that the Respondent was aware that the matter was listed before it on that date and decided that it would proceed to deal with the issue of sanction. The Tribunal heard submissions from Ms Finneran BL on behalf of the Society on the question of sanction, and it also received the advice of its legal assessor, Mr Beatty SC. The Tribunal adjourned briefly and then returned to deliver its decision on sanction. The Tribunal decided that it would not impose the sanction itself under s. 82(1) of the 2015 Act, but that it would make a recommendation to the High Court as to sanction pursuant to s. 82(2) of that Act.

26. Following the sanction hearing on 10 September 2025, the Tribunal set out in its Determination and Recommendation its decision on the question of misconduct, and it set out its reasons for its findings in that respect. The Tribunal also set out its recommendations on sanction and the reasons for those recommendations. I now turn to the Determination and Recommendation of the Tribunal, both of which are dated 14 October 2025.
27. In its Determination, as I have explained earlier, the Tribunal set out its findings on the question of misconduct. It did so in respect of all of the allegations that the Respondent had admitted at the outset of the inquiry hearing on 29 April 2025. References that I will now give to paragraph numbers are those in Ms Furey's affidavit.
28. The findings made in relation to the allegations against the Respondent were as follows. The allegation at para. 45(b) was that the Respondent:

> *"(b) Misappropriated client funds held in the client ledger account of William and Lorraine Kehoe in the amount of €239,500 to partly fund the acquisition of two properties in Cavan, namely 69 Church Street, Cavan on behalf of the Respondent Legal Practitioner and 37 Connolly Street, Cavan on behalf of his client Drumesta Limited as admitted in his replying affidavit sworn on 13 May 2024* [affidavit sworn by the Respondent in response to the Society's suspension application before me on 29 April 2024]*".*

29. The Tribunal found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a) and (h) of the 2015 Act beyond reasonable doubt. The Tribunal gave reasons for that finding, and it was satisfied that the conduct proven as to fact amounted to misconduct by reason of the fact that the acts or omissions by the Respondent involved fraud or dishonesty, that they brought the solicitors profession into disrepute and that the finding was serious.
30. The next allegation at para. 45(c) was that the Respondent:

> *"(c) Caused, permitted or allowed a deficit of €6,150 to arise on the client ledger of the Estate of Paul O'Halloran (deceased) by making an unauthorised payment for that amount to an unrelated litigation client Jiri Sarissky on 27 September 2023 in breach of Regulations 7(1)(a)(i) and 7(2)(a) of the Solicitors Accounts Regulations 2014 (S.I.*

No. 516 of 2014) and the Solicitors Accounts Regulations 2023 (S.I. No. 118 of 2023)…"

31. The Tribunal found that that allegation was proven as to fact by reason of the Respondent's admission to this allegation, and the uncontroverted evidence of Ms Furey. The Tribunal also found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The reasons given by the Tribunal for so finding were the admissions made by the Respondent at the Inquiry, the fact that the acts or omissions involved amounted to fraud or dishonesty and a breach of the relevant Solicitors Accounts Regulations, that they brought the solicitors profession into disrepute and that the Tribunal was satisfied that the allegation was serious.
32. The next allegation at para. 45(d) was that the Respondent:

> *"(d) Caused, permitted or allowed a deficit of €239,500 to arise on the file of William and Lorraine Kehoe by making an unauthorised payment to O'Brien Lynam Solicitors for that amount on 30 November 2022 contrary to Regulations 7(1)(a)(i) and 7(2)(a) of the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014)…"*

33. The Tribunal found that allegation proven as to fact beyond reasonable doubt and relied on the admissions of the Respondent at the inquiry hearing in that regard. The Tribunal also had regard to the uncontroverted evidence of Ms Furey. It also found that the allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act.
34. The allegation at para. 45(e) was that the Respondent:

> *"(e) Failed to produce suitable vouching documentation for a payment of €105,750 from the client account to the firm's office no. 2 account on 8 April 2024 posted to the client ledger of Drumnesta Limited in breach of Regulation 13(1) of the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014) and the Solicitors Accounts Regulations 2023 (S.I. No. 118 of 2023)…*"

35. The Tribunal found that allegation proven as to fact beyond reasonable doubt and had regard to the admissions made by the Respondent at the inquiry hearing and in his previous affidavits,

as well as to the uncontroverted evidence of Ms Furey. The Tribunal found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The Tribunal provided similar reasons to those provided for the previous allegations for so finding in relation to this allegation against the Respondent.

36. The Tribunal then dealt with the allegation at para. 45(f) which was that the Respondent failed:

> *"(f)…to maintain proper books of account and such relevant supporting documentation to enable the client monies handled and dealt with by the Respondent Legal Practitioner to be duly recorded and the entries relevant thereto to the books of account to be properly vouched, including failure to produce a file regarding a personal transaction of the Respondent Legal Practitioner when requested, in breach of Regulation 13(1) of the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014) and Regulation 13(1) of the Solicitors Accounts Regulations 2023 (S.I. No. 118 of 2023)…"*

37. The Tribunal found that that allegation was proven as to fact, again relying on the admissions of the Respondent at the inquiry hearing and in his previous affidavits, and the uncontroverted evidence of Ms Furey. The Tribunal found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The Tribunal provided similar reasons to those provided for the previous allegations for so finding in relation to this allegation against the Respondent.

38. In respect of the allegation at para. 45(g), the Tribunal noted that the allegation was that the Respondent:

> *"(g) Caused, permitted or allowed a deficit of €22,500 to arise on Client Reference ONM003001 by making an unauthorised payment for that amount to Collins Crowley Solicitors on 21 December 2023 on behalf of the Respondent Legal Practitioner in breach of Regulation 7(2)(a) and Regulation 13(2)(a) of the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014) and the Solicitors Accounts Regulations 2023 (S.I. No. 118 of 2023)…"*

39. The Tribunal found that that allegation was proven as to fact beyond reasonable doubt, again relying on the admissions of the Respondent at the inquiry hearing and in his previous

affidavits, and the uncontroverted evidence of Ms Furey. The Tribunal found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The Tribunal provided similar reasons to those provided for the previous allegations for so finding in relation to this allegation against the Respondent.

40. The allegation at para. 45(h) against the Respondent was that he:

> *"(h) Caused, permitted or allowed a debit balance of €10,000 to arise on Client Reference DUH001008 by making an unauthorised payment for that amount to the relevant client on 3 March 2023 when no client monies were held on behalf of that client and by failing to maintain proper books of account which showed the true financial position in relation to this payment in breach of Regulation 7(2)(a) and Regulation 13(2)(a) of the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014)…"*

41. The Tribunal found that that allegation was proven as to fact beyond reasonable doubt, again relying on the admissions of the Respondent at the inquiry hearing and in his previous affidavits, and the uncontroverted evidence of Ms Furey. The Tribunal found that that allegation amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The Tribunal provided similar reasons to those provided for the previous allegations for so finding in relation to this allegation against the Respondent.

42. The final allegation at para. 45(j) was that the Respondent failed:

> *"(j)…to document client risk assessments as required by Regulation 7 of the Solicitors (Money Laundering and Terrorist Financing) Regulations 2020 (S.I. No. 377/2020)*
>
> [in relation to 7 different client references]*"*...

43. The Tribunal found that that allegation was proven as to fact beyond reasonable doubt, again relying on the admissions of the Respondent at the inquiry hearing and in his previous affidavits, and the uncontroverted evidence of Ms Furey. The Tribunal found that that allegation also amounted to misconduct within the meaning of that term in s. 50(1)(a), (e) and (h) of the 2015 Act. The Tribunal provided similar reasons to those provided for the previous allegations for so finding in relation to this allegation against the Respondent.

7. Recommendation as to Sanction to the High Court

44. I will turn now to the recommendations made to the High Court by the Tribunal in the Recommendation document issued by it, and the reasons for those recommendations. The Tribunal decided that it would not make an order itself under s. 82(1) of the 2015 Act but that it would make a recommendation in relation to sanction to the High Court under s. 82(2) of that Act.

45. The Tribunal's recommendations as to the sanctions which it felt should be imposed on the Respondent were as follows:

> "*(a) That the respondent legal practitioner's name be struck off the roll of solicitors pursuant to section 85(7)(f) of the* [2015] *Act*;
>
> *(b) That the respondent legal practitioner pay the costs of the applicant in respect of the inquiry in the sum of €10,114.50 or, if appropriate, such costs as assessed by a Legal Costs Adjudicator in default of agreement pursuant to section 85(7)(h)(iii) of the* [2015] *Act*".

46. The Tribunal then gave detailed reasons for its Recommendation as to sanction. It noted that the findings as fact and to misconduct included:

> "(*i) the misappropriation of client funds;*
>
> *(ii) unauthorised payment;*
>
> *(iii) deficits in client files and ledgers;*
>
> *(iv) failure to maintain proper books of account;*
>
> *(v) failure to produce suitable vouching documentation regarding payments from client accounts to practice accounts and;*

(vi) a failure to document client risk assessment as required by Regulation 7 of the Solicitors (Money Laundering and Terrorist Financing) Regulations 2020 (S.I. No. 377/2020)."

47. The Tribunal pointed out that the findings were not only serious, but that they were at the "*very upper end of seriousness*". It stated that the findings established not only that the Respondent discharged his professional duties other than with complete integrity, probity and trustworthiness, but that he acted dishonestly, such that the Tribunal was satisfied to recommend that he be struck off the Roll of Solicitors, irrespective of any mitigation. The Tribunal did, however, consider mitigating circumstances, including that the Respondent made admissions during the inquiry hearing on 29 April 2025, that he co-operated with the Inquiry on that date and that he experienced difficult personal circumstances. However, the Tribunal did not consider those mitigating circumstances to be such that the Respondent's name should not be struck off the Roll of Solicitors.
48. The Tribunal then had regard to aggravating circumstances, which, in its view, rendered the recommended sanction proportionate and appropriate, which it noted were as follows:

"*(i) The conduct, the subject of the Tribunal's findings was dishonest, calculated, repeated and followed by attempts to cover up his wrongdoing;*

(ii) Further, the respondent legal practitioner benefitted financially from his misconduct at the expense [of] *clients;*

(iii) In addition to this, the respondent legal practitioner has a previous finding of misconduct against him by the Solicitors Disciplinary Tribunal in relation to Record Number: 2018/DT88…following an inquiry held 30 November 2019…and a finding of misconduct in relation to Record Number: 2023/LPDT15…following an inquiry held 15 January 2025 (which findings related to the receipt of Jobseekers Benefit to which [the Respondent] *was not entitled; and causing, permitting and/or allowing a deficit on the client account; and failing to maintain proper books of account*".

49. In its Determination and in its Recommendation as to sanction, the Tribunal pointed out that it had considered less serious sanctions, but decided that they would not be appropriate or proportionate. It considered that the recommended sanctions were appropriate and

proportionate, and that they were necessary to protect the public and to bring to the attention of other members of the profession that the misconduct found would not be permitted, and would result in very serious sanctions. The Tribunal also felt that the severity of the sanctions recommended was necessary to deter the Respondent and other members of the profession from emulating similar conduct. In reaching its recommended sanctions, the Tribunal expressly considered the Legal Practitioners Disciplinary Tribunal Guidance Note on Sanctions (the "Guidance"). It considered that the sanctions which it was recommending were consistent with that Guidance. It expressly pointed out that it had considered all relevant factors in deciding on the recommendations as to sanction. Those recommendations were ultimately that the Respondent's name be struck off the Roll of Solicitors and that the Respondent would pay the sum of €10,114.50, being the Society's costs in the Tribunal proceedings.

8. Application of the Relevant Legal Principles

50. I am asked by the Society on this application to adopt those recommendations and to impose the recommended sanctions. I have set out earlier the approach that the Court is required to take on an application such as this, and the relevant principles on sanctions in the Tribunal's regime. I must be satisfied that the Tribunal, in making its Determination and Recommendation as to sanction, applied the correct legal principles, being those set out in *D'Alton* and *Corrigan*. I am satisfied that the Tribunal did so in this case. The Tribunal did, in my view, comply fully with the legal principles on sanctioning.
51. I am also satisfied that in dealing with this application, I must afford weight and respect to the views of the Tribunal in its Recommendation. As I noted in *Edward O'Brien*, this is in no sense a rubber-stamping exercise and it is necessary for the Court itself to be satisfied that the sanctions sought to be imposed are appropriate and proportionate, and that they otherwise comply with the relevant principles on sanctioning in this area. I am satisfied that they are, and I draw particular attention to the well-established caselaw on the appropriate sanctions to be imposed in the case of proven dishonesty by a legal practitioner. Ms Finneran BL, on behalf of the Society, has drawn to my attention various relevant authorities in this area.

9. <u>Dishonesty by a Legal Practitioner</u>

52. One of the core values of the solicitors profession is honesty. That value is prominent in the most recent edition of the Solicitors Guide to Professional Conduct (4th Edn) (2022). Numerous cases point to honesty as being a critical and core value in the solicitors profession, and to dishonesty as the antithesis of what a solicitor must demonstrate in the course of their role. Findings of misconduct involving dishonesty, including the misappropriation of client funds as featured in this case, will always attract a very serious sanction, and in almost all cases, the most serious sanction, namely, a strike off from the Roll of Solicitors. That is clear from all of the authorities which I have mentioned earlier in my judgment. As Kelly P stated in the *D'Alton* case:

> "*…where a solicitor is found guilty of dishonesty or wrongfully taking funds from a client account,* [that will] *almost invariably result in an order that his or her name be struck from the Roll of Solicitors*" (para. 34).

53. The caselaw in this area is replete with reference to the fundamental importance of complete and absolute honesty on the part of a solicitor. In her judgment in the Court of Appeal in the *Law Society v Doocey* [2022] IECA 2, Donnelly J referred to the fundamental requirement of honesty for the practice of a solicitor. Collins J in his concurring judgment in *Doocey* referred to various authorities in this area, including the judgment of Keane CJ in *Re Burke* [2001] 4 IR 445 and of McKechnie J in *Law Society v Carroll* [2016] 1 IR 676. I referred to the relevant dicta from those judgments in *Corrigan* at paras. 68-72 of my judgment in that case. It is unnecessary to reproduce those paragraphs here.
54. At para. 5 of his judgment in *Doocey*, Collins J said:

> "*Honesty is, of course, a fundamental attribute required of all legal professionals in practice in the State…as regards solicitors, the Law Society's Guide to Good Professional Practice identifies honesty as one of the 'core values' of the profession which 'a solicitor should at all times observe and promote' and avoid 'any conduct or activities inconsistent with those values'. A solicitor, the Guide says simply, must be honest in his practice as a solicitor in all his dealings with others (section 1.3). Because solicitors handle client monies, their adherence to the standards of honest conduct is, of course, of particular importance. The need for absolute honesty - and the serious*

consequences for solicitors of any departure from honest conduct - is emphasised time and again in the authorities." (para. 5).

55. Collins J noted at the end of his judgment in *Doocey* (at para. 23):

> "*…as Sir Thomas Bingham MR noted in Bolton v Law Society [1994] 1 WLR 512 while membership of the solicitors' profession may bring many benefits, those benefits come at the price of being held to exacting standards of honesty, integrity and trustworthiness. The continuing vitality of such standards is essential to the maintenance of trust and confidence in the solicitor's profession, which is an essential component in the administration of justice and the rule of law. In my view, the admitted misconduct of the Solicitor here involved such a serious departure from those standards that she has, regrettably, forfeited her entitlement to remain on the roll of solicitors.*" (para. 23).

56. That concluding observation by Collins J in *Doocey* is particularly apposite to the application that now comes before me. The admitted misconduct in this case by the Respondent and the facts found by the Tribunal involve such a "*serious departure*" from the required "*exacting standards of honesty, integrity and trustworthiness*". It is my view that the Respondent in this case, Mr O'Brien, has forfeited his right to remain on the Roll of Solicitors. The almost invariable sanction which will be imposed on a solicitor, or indeed on any legal practitioner, where a finding of misconduct involving dishonesty has been made, will be an order to strike that legal practitioner's name from the relevant roll. In my view, this is such a case where the sanction of strike off is appropriate and proportionate.

10. Decision on the Application

57. For those reasons, I am satisfied that the appropriate sanctions to be imposed on the Respondent are those recommended by the Tribunal. I will, therefore, make the orders sought by the Society at paras. (i) and (ii) of the Originating Notice of Motion, namely, that the Respondent's name be struck from the Roll of Solicitors and that the Respondent pay the Society's costs of the inquiry before the Tribunal of €10,114.50.
58. An order is also sought by the Society at para. (iii) of this application to the Court for its costs in the measured sum of €3,978. The Society is clearly entitled to its costs. I will make an order

that the Respondent pay that sum forthwith to the Society. It is an entirely reasonable sum in the circumstances, and can and should be ordered to be paid by the Respondent pursuant to s. 85(8) of the 2015 Act.