

SOLICITORS DISCIPLINARY TRIBUNAL

SOLICITORS ACT 1974

IN THE MATTER OF THE SOLICITORS REGULATION AUTHORITY,  
(The Respondent)

Upon the application of Neil Harding Taylor  
on behalf of the Solicitors Regulation Authority

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Mrs J. Martineau (in the chair)  
Mr. R. B. Bamford  
Mr. S. Howe

Date of Hearing: 7th September 2010

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**FINDINGS & DECISION RELATING TO APPLICATION  
FOR REMOVAL OR VARIATION OF CONDITIONS  
IMPOSED ON MR TAYLOR AND ORDER FOR COSTS**

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**Appearances**

The Applicant, Mr Taylor, appeared in person and Inderjit Singh Johal of Counsel employed by the Solicitors Regulation Authority (“SRA”) appeared for the SRA.

In an application entitled “Outline Submissions by Neil Harding Taylor”, Mr Taylor applied to the Tribunal that the conditions imposed upon him by the Tribunal subsequently varied by the Master of the Rolls on 1<sup>st</sup> November 2005 be removed.

**The History**

1. Mr Taylor was admitted to the Roll on 15<sup>th</sup> June 1981. He practised as a sole practitioner in the firm of Neil Taylor & Co from January 1996 until December 1998 when his firm was intervened into by The Law Society.
2. On 8<sup>th</sup> June 1999 the Tribunal suspended the Applicant from practice as a solicitor for an indefinite period.

3. On 24<sup>th</sup> March 2005 the Tribunal determined the indefinite suspension and ordered that any practising certificate granted to Mr Taylor should be subject to conditions that he might practise only in employment or partnership approved by The Law Society and that he should not be permitted to handle clients' money.
4. Mr Taylor appealed the Tribunal's decision to the Master of the Rolls and The Law Society cross appealed. On 1<sup>st</sup> November 2005 the Master of the Rolls quashed the Tribunal's Order dated 24<sup>th</sup> March 2005 and the Master of the Rolls made the following order: "In the future the petitioner [Mr Taylor] may not practise as a sole practitioner but only in employment or partnership. When employed he must not operate a client account. The petitioner to have liberty to apply to the Tribunal to vary these conditions." The Master of the Rolls explained that it was not his intention thereby to fetter The Law Society's regulatory powers in any way.
5. The Applicant's 1996/1997 practising certificate was terminated by The Law Society on 5<sup>th</sup> May 1998.
6. Since the determination of the indefinite suspension, all practising certificates granted to Mr Taylor had been subject to broadly the same conditions that were imposed by the Master of the Rolls. Mr Taylor's current practising certificate for the year 2009/2010 was subject to the following conditions:
  - “(i) that the Applicant is not a sole principal or sole director of an incorporated or unincorporated legal practice;
  - (ii) he is not a principal, director or member of an incorporated or unincorporated legal practice where all the other principals, directors or members have less than 3 years:
    - (a) post admission experience practising as a solicitor;
    - (b) post registration experience practising law as an REL or RFL,

Unless the arrangements have first been approved by The Law Society.
  - (iii) Should the applicant practise as an employed solicitor, then he is not to be a signatory to any client or office account, and should not receive, hold or have access to any client monies.
  - (iv) He must inform any other principal, director or member or prospective principal, director or member of this decision.”
7. Mr Taylor had appealed these conditions but they were upheld by an Adjudicator on 4<sup>th</sup> March 2010. The only practising certificate that did not include a condition that Mr Taylor might not hold client monies was the 2007/2008 certificate that was granted to him on 16<sup>th</sup> May 2008.
8. Mr Taylor had joined Guy Dodd Solicitors in June 2006 as an employee. On 3<sup>rd</sup> January 2007 he became a partner in that practice and remained a partner until 30<sup>th</sup> September 2008.

## Mr Taylor's Application

9. The conditions on Mr Taylor's practising certificate had been in place for nearly five years. They bore no relationship to the matters before the Tribunal or the Master of the Rolls. Mr Taylor could not be a sole practitioner and the conditions are a considerable disincentive to prospective employers or partners. Whilst with Guy Dodd, Mr Taylor displayed the Welsh language side of his practising certificate, but his current certificate was only in English.
10. Mr Taylor joined Guy Dodd in June 2006 as a part time employee working from home although he did call in at the office on a regular basis. He became a partner in 2007 when a previous partner left, this was only because most mortgage lenders would only deal with firms having at least two partners. When the firm was taken over on 1<sup>st</sup> October 2008 serious problems came to light regarding the practising certificate conditions and indemnity insurance. Either insurers would decline to indemnify or there would be a substantial increase in premium. Guy Dodd decided to dispense with Mr Taylor's services.
11. Mr Taylor's work in private practice came to an end and that had cost him thousands of pounds in income. He believed that any firm would have the same response from its indemnity insurers which was the main problem.
12. There was nothing in Mr Taylor's past, professional or otherwise, that could possibly justify 'prohibitive terms' in relation to indemnity cover. Practising certificates had to be on display, the condition that Mr Taylor might not be a sole practitioner had to imply to the public that he had been guilty of gross misconduct in running a practice. Mr Taylor breached some of the Rules, but he had subsequently been granted a waiver which dealt with two of the three allegations against him..
13. The term "he is not to be a signatory to any client or office account, and should not receive, hold or have access to client monies" had to imply to a client serious dishonesty or even theft of client money by Mr Taylor. There had never been any suggestion of that sort of misconduct or that Mr Taylor dealt with client monies other than according to the Rules. This was accepted by the SRA.
14. The condition meant that Mr Taylor would have difficulty in persuading an employer that he was trustworthy and had not misused clients' money. Since returning to practice Mr Taylor had undertaken conveyancing. No employer would be happy to have Mr Taylor's practising certificate displayed to clients, particularly those involved in conveyancing transactions. They would be asked to hand over cheques but told not to give them to him. Mr Taylor had prepared Wills for elderly clients who had paid in cash. He could not accept cash payments as an employee.
15. The restrictions upon Mr Taylor had to imply to "the man in the street" that Mr Taylor, a practising solicitor, could not be trusted to look after the money of a pub darts team or run a Christmas hamper club.
16. Since 2006 Mr Taylor had been the sole executor of two estates operating trustee bank accounts. He was, as secretary, signatory to a voluntary sector organisation's bank accounts. He had recently been appointed treasurer of a trade union's council,

although did not sign cheques. Mr Taylor's honesty and integrity had never been questioned, as was confirmed by the SRA.

17. Mr Taylor was well known in his community and during his 10 years with the Federation of Small Businesses (FSB) qualified as a journalist and worked part time as a PR consultant. He joined the National Union of Journalists in 2001 and was asked to become the Branch Secretary. He became involved in a campaign to set up a Wales Council (Treasurer), and has served on the Equality Council. For six years he ran a high profile campaign to get the Rhyl Little Theatre, the first purpose built theatre for children, a new lease. It gained one following a three day Court hearing in February. Mr Taylor prepared the case for Counsel. Mr Taylor had borrowed money personally to fund the Rhyl Little Theatre.
18. In 2002 Mr Taylor qualified for admission as a Notary Public and wished to apply to practise as such. He had not done so as an application was likely to be refused because of the conditions on his practising certificate. Being a solicitor and Notary would make re-joining the profession much easier.
19. Mr Taylor had kept up to date by attending Law Society CPD courses as well as employment and equality law up dates through the NUJ and charity law, company law and health & safety updates through the Communities First Partnership.
20. Since retiring from the FSB in 2006 Mr Taylor had become more involved in the community.
21. Mr Taylor asked the Tribunal to take into account the remarks of the earlier Tribunal, namely:
 

“It is a matter of deep regret that Mr Taylor did not take independent advice prior to the Tribunal disciplinary hearing. He might well have had a defence to at least two of the allegations”, and when the Master of the Rolls made his order on 1<sup>st</sup> November 2005 he said: “...it would be appropriate to impose a finite period for the operation of that condition because it is plain that the SDT took the view that the petitioner needed the support of employment or partnership before he practised as a solicitor. However, it should not be, .... a sentence for life. The way to avoid that problem is to add to the condition “a liberty to the petitioner to apply to the tribunal to vary or discharge the conditions, if appropriate.”
22. It might well have been that had Mr Taylor taken advice in 1998 and been able to attend the hearing the Tribunal's ruling would have been very different. Mr Taylor explained to the Tribunal that he had not attended the disciplinary hearing because he had been given to understand that the outcome would be no more than “a slap on the wrists”, he had an important engagement elsewhere on the date of the hearing and he could not afford to pay for advice or representation.
23. At the hearing on 7<sup>th</sup> September it was less than two months short of five years since the conditions had been imposed and during that period Mr Taylor had been both employed and a partner for most of the time. It was the SRA's position that “Since the conditions were imposed the Applicant has been in private practice for less than 3

years.” He returned to practice as a solicitor in April 2006, working part time for Merlyn Associates Ltd. He then also worked part time for Guy Dodd from June 2006 until becoming a partner until 30<sup>th</sup> September 2008. In January 2010 he became the solicitor, as well as secretary, of The Rhyl Little Theatre Ltd, a children’s charity. Mr Taylor had practised as a solicitor for some three years and three months doing the five year period and he believed this to be long enough to demonstrate that he should be able to return to practice free of conditions.

24. Mr Taylor had kept up to date and met continuing professional development requirements by taking a number of courses including those on money laundering, employment, health and safety. He had passed the examination to become a member of the Institute of Personnel Development. He regularly read legal journals and he considered changes in the law on a weekly basis.
24. Mr Taylor had learnt his lesson and knew the consequences of not abiding by the Rules even when his legitimate dispute before the Court waiting for a hearing. Mr Taylor did not pose a threat to the public and his return to practice would not adversely affect the good reputation of the Solicitors’ profession.

### **The SRA’s Response**

25. The SRA adopted a neutral stance.
26. The SRA had had no regulatory or disciplinary concerns about Mr Taylor since the imposition of the conditions by the Master of the Rolls.
27. When the Tribunal lifted the indefinite suspension it had serious doubts about Mr Taylor’s ability to act as a sole practitioner. The Master of the Rolls endorsed those doubts when he imposed the conditions.
28. In considering whether the Master of the Rolls’s conditions should continue in order to protect the public and the reputation of the profession, the Tribunal had to determine whether Mr Taylor had demonstrated that he could now comply with all the requirements of sole practice.
29. Since the conditions were imposed Mr Taylor had been in private practice for less than 3 years. He was an employee at Guy Dodd Solicitors for some 6 months before becoming a partner in that practice for some 21 months, when Accountant’s Reports were delivered on time and were unqualified. There had been no failure to comply with the practising certificate conditions. Mr Taylor had last practised as a sole practitioner some 12 years ago in 1998.
30. The conditions imposed by the Master of the Rolls might be a disincentive for prospective employers or partners to take on Mr Taylor. However, the Master of the Rolls was of the opinion that those conditions were necessary and proportionate, and that the applicant should not be allowed to practise freely. Any difficulties that Mr Taylor had had in obtaining employment were mitigation personal to him and should not be a weighty factor when considering whether to remove or vary the conditions. It was not accepted that the conditions necessarily implied gross misconduct in running a practice or dishonesty with client money. It was accepted that there had

never been an issue as to Mr Taylor's honesty or integrity when handling clients' monies.

31. It was also accepted that the conditions might have an impact upon Mr Taylor's practice as a Notary Public and the conditions might cause him embarrassment and adversely affect his reputation. The collective reputation of the solicitors' profession takes precedence over the position of an individual solicitor.
32. The Tribunal does not have jurisdiction to give orders or direct the SRA to remove or impose conditions upon an applicant's practising certificate, however it was anticipated that any future practising certificate issued to Mr Taylor would reflect the Tribunal's decision.

### **The Tribunal's Decision**

33. It was clear that the Tribunal's jurisdiction extended only to the freestanding conditions specified by the Master of the Rolls on 1<sup>st</sup> November 2005, which are set out in paragraph 6 above. The Tribunal could make no ruling upon the conditions in Mr Taylor's practising certificate. The Tribunal wished to make it clear that its decision did not, and was not intended in any way, to fetter the SRA's discretion as to whether to impose conditions upon Mr Taylor's future practising certificates or the nature of them.
34. The Tribunal has seen and heard Mr Taylor present his own application and has taken into account the submissions of the SRA.
35. The Tribunal was concerned to learn that amongst the reasons Mr Taylor gave for not attending the earlier disciplinary hearing was that advice he received about the likely sanction and his having a conflicting engagement. It must have appeared to the Tribunal that Mr Taylor had no regard for his regulatory obligations and little or no regard for his profession's regulatory and disciplinary process. The Tribunal now accepts that that was not the case. The Tribunal noted that Mr Taylor had subsequently obtained waivers of the requirement to file the outstanding Accountants' Reports.
36. Mr Taylor was content to work in his capacity as a solicitor subject to those conditions until they proved an obstacle in connection with his firm's professional indemnity cover. Mr Taylor also pointed out that the condition that he must not operate a client account caused members of the public to infer that he had been dishonest when handling clients' money in the past. Mr Taylor explained that when his practising certificate had been issued in Welsh and English he was able to display a Welsh version. Now that his practising certificate was issued only in English he was not able to do that.
37. The Tribunal took into account Mr Taylor's attitude about the display of his Welsh practising certificate which it considered inappropriate, a solicitor having a duty to be frank with all those with whom he had dealings. The Tribunal took into account Mr Taylor's explanation that he was a solicitor to a charity in Rhyl, and that he had borrowed money which he lent to that charity. He had not explained whether he had given any consideration to the possibility of a conflict of interest arising in such

circumstances. Mr Taylor had gained waivers of the requirement to file Accountant's Reports after the disciplinary sanction had been imposed upon him, but he had not taken any such step earlier when the SRA had over time pointed out his omissions in this regard, and he then had had the opportunity to set his house in order before the disciplinary hearing stage was reached. The Tribunal noted the absence of support for Mr Taylor's application. There were no letters of support and no supporter attended the hearing. The Tribunal did however note that the SRA made it clear that Mr Taylor's honesty and integrity was not in question, and it adopted a stand of neutrality when answering his application.

38. The Tribunal accepted Mr Taylor's submission that the freestanding condition that when employed he should not be permitted to operate client account would be perceived as an indication of a lack of integrity on his part. The Tribunal was satisfied that Mr Taylor had not been guilty of dishonesty or lack of probity, integrity or trustworthiness in connection with client funds, and it ruled that the freestanding condition that Mr Taylor should not operate client account when employed be removed forthwith.
39. Because of the Tribunal's remaining concerns about Mr Taylor's recognition of his professional obligations as set out above, it warned that the other freestanding condition should remain in place, namely that Mr Taylor might not practise as a sole practitioner but only in employment and partnership.

### **Costs**

40. The SRA sought its costs in connection with responding to Mr Taylor's application. A note of those costs was provided to the Tribunal.
41. Mr Taylor did not accept that the SRA needed to respond to his application and he objected to his being required to pay the SRA's costs in principle. He did not object to the quantum of the costs sought, namely £1,170.40.
42. Mr Taylor also objected to his being required to pay the SRA's costs on the basis of hardship. He provided details of his income and assets to the Tribunal which demonstrated that his expenditure was greater than his income, although it had to be recognised that he did expect repayment of the loans he had made to the Rhyl Little Theatre charity.
43. The Tribunal recognised that the nature of Mr Taylor's application was unusual. However, the Master of the Rolls had ruled that an application for any variation of the freestanding conditions was to be made to this Tribunal and this Tribunal required a response to such application. It clearly was appropriate that the SRA was the appropriate body to respond and the submissions prepared by Mr Johal had been very helpful to the Tribunal and were no doubt of considerable help to Mr Taylor himself. The costs sought by the SRA were modest. The Tribunal therefore made the following costs order.
44. The Tribunal noted Mr Taylor's parlous financial position and considered that it would be appropriate to rule that the costs order made against him should not be enforced without the Tribunal's prior consent.

**Order**

45. The Tribunal Ordered that Neil Harding Taylor of 76 Rhuddlan Road, Rhyl, LL18 2PS, do pay the costs of and incidental to the response of the SRA to his application fixed in the sum of £1,170.40, such Order not to be enforced without the prior leave of the Tribunal.

Dated this 14<sup>th</sup> day of October 2010  
On behalf of the Tribunal

Mrs J Martineau  
Chairman