

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2023] NZLCDT 38

LCDT 011/22

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**DAVINA VALERIE REID**

Applicant

**AND**

**NEW ZEALAND LAW SOCIETY**

Respondent

**DEPUTY CHAIR**

Dr J Adams

**MEMBERS OF TRIBUNAL**

Hon P Heath KC

Mr H Matthews

Ms G Phipps

Ms P Walker MNZM

**On the papers**

**DATE OF DECISION** 1 September 2023

**COUNSEL**

Ms D Reid the applicant

Mr P Collins for the New Zealand Law Society

### **DECISION OF THE TRIBUNAL RE COSTS**

[1] The New Zealand Law Society, having succeeded in opposing Ms Reid's application to be re-enrolled, seeks costs. We had, earlier, mistakenly thought she was legally aided but Ms Reid informed us that was not so. Counsel have filed written submissions. We deal with this matter on the papers.

[2] Ms Reid challenges the extent of the New Zealand Law Society (NZLS) claim at \$27,500. Ms Reid's application raised several points with a history that required attention. Her application raised legal questions and issues of tikanga. It was balanced and helpful for NZLS to obtain an affidavit from Professor Higgins to guide us in relation to important matters of tikanga. We find the costs of \$27,500 were reasonably incurred in the circumstances of this case.

[3] Except to the extent of costs relief, the costs of NZLS will be borne by members of the legal profession.

[4] An application to have one's name restored to the roll of barristers and solicitors is a civil proceeding. Generally, the successful party in most civil proceedings will be awarded a contribution to their costs. This will sometimes be pursuant to a scale but, unsurprisingly, there is no scale for this relatively infrequent type of proceeding before the Tribunal. Sometimes a costs contribution will amount to something like two-thirds of the actual costs incurred by the successful party. However, costs are always in the discretion of the Court (or Tribunal). A costs award needs to fit the circumstances of the case, it needs to be just.

[5] In *Deobhakta*,<sup>1</sup> where the applicant for re-enrolment behaved poorly in a number of respects, full costs were awarded. We regard the facts of that case as exceptional and do not treat it as a useful guide in the present case.

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<sup>1</sup> *Deobhakta v New Zealand Law Society* [2020] NZLCDT 2.

[6] We found Ms Reid's case fell well short of success. The NZLS advised her, early and accurately, of the things she needed to establish. Against the relevant background of her conviction, these included: remorse, rehabilitation, and the fundamentals of establishing her present good character as a fit and proper person to be enrolled. Despite clear warning, she failed to address, or to successfully address, those things. To this extent, her application was ill-advised, causing unnecessary costs to the NZLS.

[7] Although Ms Reid has not raised, in submissions, her financial position, we infer that, although she has employment, and has no dependants (to our knowledge), she is probably in modest circumstances. We accept that she genuinely thought she was entitled to be re-enrolled.

[8] In these circumstances, we are inclined to impose only a modest award of costs.

[9] We order Ms Reid to pay \$6000 to NZLS as a contribution to their costs in the Tribunal hearing.

**DATED** at AUCKLAND this 1<sup>st</sup> day of September 2023

Dr JG Adams  
Deputy Chairperson