

**THE SOLICITORS (SCOTLAND) ACT 1980  
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL  
(PROCEDURE RULES 2024)**

INTERLOCUTOR

in Complaint


by

THE COUNCIL OF THE LAW SOCIETY OF  
SCOTLAND, Atria One, 144 Morrison Street, Edinburgh  
(hereinafter referred to as "the Complainers")

against

DAVID MORRISON, 13 Woodhill Place, Aberdeen, AB15  
5LF (hereinafter referred to as "the Respondent")

By Video Conference, 16 July 2025, the Tribunal grants paragraphs 1 and 2(a) of the Complainer's unopposed motion and thereby recalls the sist granted on 25 March 2025, permits withdrawal of the Complaint in terms of Rule 33 of the Scottish Solicitors' Discipline Tribunal Rules 2024 on cause shown and directs that no expenses are due to or by either party; Directs that publicity be given to this decision; *Quoad Ultra* refused.

  
**Vincent McGovern**  
**Acting Vice Chair**

## NOTE

This Complaint was set down for a virtual Procedural Hearing on 16 July 2025. The Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate. The Respondent was not present or represented. The Fiscal confirmed that he had been in direct contact with the Respondent's daughter on the basis that the Respondent had previously provided written authorisation for the Complainer to correspond with her regarding this matter.

The Fiscal's motion was presented in three distinct sections as follows:-

1. *To recall the sist granted on 25 March 2025*
2. *To permit the withdrawal of the Complaint in terms of Rule 33 of the 2024 Rules on the following conditions*
  - a. *No expenses due to or by either party*
  - b. *The Respondent accepts the Council retains the right to raise regulatory proceedings based upon the same factual basis should his condition improve to the extent he returns to practise.*

In seeking to withdraw the Complaint, the Fiscal referred to the unchallenged medical report lodged in process and described the circumstances as "exceptional". Additionally, the Fiscal asked the Tribunal to direct that no expenses were due to or by.

The Tribunal had concerns about granting an order in terms of paragraph 2(b) of the motion on the basis that it was a request to bind the Respondent to an obligation, as opposed to being a request for the Tribunal to make a positive order or instruction to a party or parties. The Tribunal was not convinced that it had the power to so bind a party. The Tribunal also had concerns about enforcement of such an order, should the issue arise at a later date, and explored these with the Fiscal.

In response, the Fiscal confirmed that his instructions were to preserve the discretion to re-raise proceedings at a later stage if that became appropriate. However, given the personal circumstances of the Respondent, it was acknowledged that this would be unlikely to occur.

The Tribunal raised the possibility of employing alternative wording, such as *pro loco et tempore*, to resolve the issue. However, the Fiscal observed that these were civil proceedings and, therefore, considered that the use of terminology from criminal law procedure should be avoided. His instructions were to ask the Tribunal to expressly acknowledge the customary power of the Complainer to re-raise proceedings. The Fiscal moved to amend paragraph 2(b) of his motion by deleting "*The Respondent accepts that*". The Tribunal granted this

motion however, after consideration of the amended motion, decided that it was not appropriate to grant paragraph 2(b) which was considered to be no more than a statement of custom and practice.

In relation to publicity, the Fiscal stated that he had explained the duty of the Tribunal to publish all decisions in terms of Schedule 4, Paragraph 14 of the Solicitors (Scotland) Act 1980 subject to Paragraph 14A of the same legislation to the Respondent's daughter. He added that she understood and accepted the consequences of that and had no representations to make to the Tribunal in that regard.

After a detailed exploration of the issues particular to this case, the Tribunal decided to grant an order in terms of Paragraphs 1 and 2(a) of the Complainer's motion. However, it refused to grant an order in terms of Paragraph 2(b) on the basis that it was a request to rule on an unenforceable, obiter statement and was therefore incompetent. The Tribunal granted an order for publicity of this decision.

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**Vincent McGovern**  
**Acting Vice Chair**