



SECOND DIVISION, INNER HOUSE, COURT OF SESSION

[2026] CSIH 14  
P648/25

Lord Justice Clerk  
Lord Malcolm  
Lord Armstrong

OPINION OF THE COURT

delivered by LORD MALCOLM

in the petition

by

NICOLA SIMONE CANNON

Petitioner

against

THE COUNCIL OF THE LAW SOCIETY OF SCOTLAND

Respondent

**Petitioner: Cobb; Drummond Miller LLP**  
**Respondent: Breen; Balfour + Manson LLP**

25 March 2026

**Introduction**

[1] This petition concerns the failure of Ms Nicola Cannon to fulfil her responsibilities as the money laundering reporting officer of Cannons Law Practice LLP. It caused the Law Society of Scotland to lodge a complaint with the Scottish Legal Complaints Commission. It referred the matter back to the Society for investigation and determination. Based on a finding of unsatisfactory professional conduct, Ms Cannon was censured by the Professional Conduct Sub-Committee of the Society and fined £800. Her appeal to the Scottish Solicitors'

Discipline Tribunal was refused. She now petitions the court arguing (1) that the Society had no power to make the complaint to the Commission, (2) that the sanctions were disproportionate and in breach of her rights under the European Convention on Human Rights, and (3) that the tribunal's decision was unreasonable.

[2] Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Society has responsibilities in respect of monitoring and enforcing its members' compliance with the relevant requirements. As the designated reporting officer, it was Ms Cannon's professional duty to deliver the firm's money laundering certificate for the previous year by 30 April 2022, subsequently extended to 13 June 2022: see the Society's Practice Rule B9.5. Such a certificate should demonstrate the firm's compliance with the Regulations. It allows the Society to assess levels of risk and target its supervisory activities. Ms Cannon was first informed of the original timescale by email of 5 December 2021. The certificate was not provided until late 2022, some six months overdue.

#### **The submissions to the Professional Sub-Committee and its decision**

[3] Ms Cannon's representative explained that on 10 February 2022, while on holiday abroad, she had a serious accident. It required surgery. While recovering she had a pre-planned operation for another matter. It was submitted that the impact of all of this should be taken into account. Her convalescence lasted until 1 May 2022. The firm's administrative assistant had been asked to deal with her emails. However, those from the Society regarding the certificate were not addressed, the assistant having focussed on emails from clients.

[4] Ms Cannon apologised unreservedly for the failure of the arrangements put in place to cover her absence. No disrespect was intended. But for the accident and the two episodes of surgery, all would have been well. This was the first time that this had occurred. The sub-committee was asked to understand the difficulties of a small firm with few support staff and a relatively small annual income, and also the important service such a practice provides to the community. Ms Cannon's regulatory duties competed with her children's bedtime.

[5] The sub-committee observed that Ms Cannon had been notified that she required to lodge the certificate by 30 April 2022. She was given an extended deadline of 13 June 2022. However, it was not delivered till December of that year. The Society's money laundering team had sent emails about the certificate on 6 December 2021; 1 February 2022; and four further emails between 14 April and 2 June. Of these, only the 14 April and 2 June emails had been opened. The requirement to lodge a certificate occurred at the same time every year. They were important documents. Advance notice of the set date was always provided. Ms Cannon's certificate was outstanding for a prolonged period. She was on notice of the need for the certificate before the onset of her health problems. The arrangements put in place during her absence were inadequate.

[6] The sub-committee recognised that there were mitigating factors, so the view was taken that Ms Cannon's failure was not a serious and reprehensible departure from the expected standards of professional conduct. Thus, it was not assessed as professional misconduct; but clearly it did amount to unsatisfactory professional conduct. In these circumstances section 42ZA(3)(a) of the Solicitors (Scotland) Act 1980 mandated a censure. Balancing the seriousness of the failings against the mitigating features, it was decided that a fine of £800 should also be imposed.

### **A summary of the submissions on behalf of Ms Cannon to the Scottish Solicitors' Discipline Tribunal**

[7] The procedure adopted by the Society had no statutory basis and was incompetent.

Reference was made to *Cannon v Scottish Legal Complaints Commission* [2020] CSOH 23.

There it was held that the Scottish Legal Complaints Commission could not initiate a complaint to itself. The Society could not complain to itself. It had been judge in its own cause. It had breached the principles of natural justice and Ms Cannon's article 6 rights.

[8] Ms Cannon was not given an opportunity to appear in person before the sub-committee. From the excerpt of its decision as transmitted to Ms Cannon it was unclear to what extent regard was had to the written submission lodged on her behalf. In the excerpt, reference is made to a document not listed as considered by the sub-committee.

This and other errors indicated bias. The decision was preceded by a report to the sub-committee prepared by an employee of the Council of the Society, something which had no statutory basis.

[9] It was submitted that insufficient weight had been given to the unforeseen accident and the subsequent hospitalisation which delayed Ms Cannon's return to work. The sub-committee should have appreciated that her main concern would be her clients, for whom adequate arrangements were put in place. No attention was paid to the small scale of the business. A censure is a harsh penalty. An isolated breach of one regulatory rule is not a misconduct or unsatisfactory conduct matter. There was no proper consideration given to the level of an appropriate fine.

### **A summary of the tribunal's decision**

[10] The parties had agreed that no evidence would be led, the appeal being dealt with on the basis of written and oral submissions from representatives. As to the argument that the procedure and decision under challenge were unlawful, reference was made to section 1 of the Solicitors (Scotland) Act 1980. It provides that the Society's objects include the promotion of the interests of the profession and those of the public in relation to the profession. The Society could "do anything that is incidental or conducive to the exercise of these functions or the attainment of those objects" (section 1(3)). The objectives were broad and involved a number of functions, including the Society's disciplinary and regulatory functions.

[11] There was no *de facto* unfairness in the decision-making process. The allegation of bias had been withdrawn. The sub-committee's decision was clear and made sense. It had regard to the representations made on behalf of Ms Cannon. The case of *Cannon v Scottish Legal Complaints Commission* could be distinguished from the present circumstances. The censure was mandated by statute. The breach of duty was significant. The level of the fine, which was at the lower end of the available scale, was appropriate.

[12] Having regard to the guidance laid down in *Hood v Council of the Law Society of Scotland* 2017 SC 386, [2017] CSIH 21, the tribunal identified no sound basis for interference with the decision of the sub-committee. The appeal was refused and expenses awarded against Ms Cannon.

### **The appeal to this court**

*Was the procedure adopted competent and lawful?*

[13] To a large extent, this issue arises from the Society's understanding that before it could exercise its disciplinary and regulatory functions, including those under the 2017

Regulations, it required to submit a complaint about Ms Cannon's conduct to the Commission. (At the hearing there was some discussion between the court and counsel for the Society as to whether this understanding is correct, but the complaint having been made and then remitted back to the Society, the question does not arise for our decision.)

Ms Cannon argues that in the absence of express provision in the 2007 Act allowing it, the Society cannot make a complaint of this kind to the Commission.

[14] Emphasis was placed on the decision in *Cannon v Scottish Legal Complaints Commission*. There the question was whether the Commission itself could raise a complaint against a practitioner for its own determination. The answer was no, essentially because no such power was bestowed by the legislation which set up the Commission, namely the Legal Profession and Legal Aid (Scotland) Act 2007. While a conduct complaint could be made by "any person", other passages in the statute demonstrated that it had to come from someone other than the Commission. The judge took the view that if Parliament intended the Commission to be able to do this, it would have said so.

[15] We find the decision in *Cannon* of little assistance. It focussed on a complaint raised by the Commission. Section 2(2)(a) of the 2007 Act permits a conduct complaint to be forwarded to the Commission by "any person". (As per schedule 1 of the Interpretation Act 1978, this includes any unincorporated body.) While we can understand the view that it was not intended that this includes the Commission, we have identified no good reason to interpret "any person" as excluding the Society, especially given its duties under the 1980 Act and other provisions such as the 2017 Regulations. Counsel for Ms Cannon referred to sections 6(2)(a) and 47(2) of the 2007 Act, and to the notification and rights of appeal provisions in section 42ZA of the 1980 Act. It was said that these demonstrate that Parliament did not intend that "any person" would include the Society. We find these

submissions unconvincing. There is no necessary inconsistency between them and what happened here. The statutory scheme has been operating without difficulty in respect of conduct complaints made by the Society.

[16] We also note that the 2007 Act restricted the persons who could lodge a services complaint with the Commission to those directly affected plus a defined category of third parties; the latter includes the Society, see sections 2(2)(b)(viii) and 46(1). It would be absurd if the Society could make a services complaint, but not a more serious one relating to the conduct of one of its members. It is equally preposterous to suggest that the effect of the 2007 Act was to prevent the Society from fulfilling its important functions as a regulatory and disciplinary body.

[17] We reject the contention that the procedure adopted was in breach of natural justice and in contravention of article 6 of ECHR. The Society is charged by statute with maintaining proper professional standards in the interests of both the profession and the common good. For many years it has been exercising its responsibilities by supervising and, if appropriate, disciplining its members. In doing so it is not judge in its own cause. In common with other regulatory bodies, it is fulfilling one of its core functions in the public interest, with no stake in the ultimate outcome.

[18] The argument focusses on the Society having raised a conduct complaint against its member with the Commission. This aside, there is no difference in substance with the procedure adopted before the Commission came into existence. A potential default on the part of Ms Cannon came to its attention triggering a duty to investigate and adjudicate upon it. Were her submission correct, the Society would be unable to discharge its responsibilities, for example under the account rules protecting clients' monies, unless someone else could be persuaded to raise the particular matter. In the specific

circumstances here, the contention runs counter to the duty imposed on the Society by the 2017 Regulations to discipline defaulting members: see Regulation 49(1)(d).

[19] We have identified no actual unfairness. The failure to submit the certificate was not in dispute. There is no reason to conclude that relevant matters were overlooked. The weight to be given to them was a matter for the decision-maker. Proper procedures were followed and adequate reasons provided. There was a clear basis for the finding of unsatisfactory professional conduct. Any perception of bias or unfairness, or concern as to a breach of article 6, cannot stand given the right of appeal to an independent tribunal, and from it by way of petition to this court in terms of section 54(1) of the 1980 Act. In this regard reference can be made to the decision in *Robson v Council of the Law Society of Scotland* 2005 1 SC 125.

*Were the sanctions excessive, disproportionate and in breach of article 8 rights?*

[20] Given the finding of unsatisfactory professional conduct, a censure was mandated by section 42ZA(3)(a) of the 1980 Act. Since it will be extant so long as Ms Cannon is on the roll of solicitors, it was submitted that this requirement is arbitrary and disproportionate. The court cannot entertain this contention. If it was to be argued that the statutory provision is incompatible with ECHR, the petition should have been intimated to the Lord Advocate and the Advocate General, thus allowing them to enter the process and make representations. So far as the particular circumstances of this case are concerned, given the importance of compliance with Ms Cannon's responsibilities as money laundering reporting officer for the firm, we have little sympathy with a submission that a publicly accessible censure was excessive or unreasonable.

[21] As to the fine of £800, in our view it cannot be described as unjustified or harsh. Some of the arguments to this effect, for example the reference to the relatively small size and income of the practice, and the blaming of the administrative assistant, ignored the personal nature of Ms Cannon's responsibility as reporting officer.

*Was the tribunal's decision unreasonable?*

[22] The court can interfere with a decision of the tribunal if it has erred in law; has made a finding unsupported by the evidence; has fundamentally erred in its approach to the case; or has arrived at a decision which no reasonable tribunal could properly reach: *Hood v Council of the Law Society of Scotland* 2017 SC 386, [2017] CSIH 21, at paragraph 17.

[23] There was no dispute as to the key facts of the case. It was accepted that there were mitigating factors. They reduced the default from professional misconduct to the lesser category of unsatisfactory professional conduct. The court sees no reason to interfere with that decision of a body exercising professional expertise and experience when evaluating the expected conduct of someone in Ms Cannon's position. Notwithstanding the two episodes of surgery, she had ample opportunity to comply with the deadline of 13 June 2022. In the event, the certificate was not delivered until December. The impression is of an overly casual attitude to an important professional duty.

[24] We have identified no unreasonableness or other flaw in the decisions complained of. The tribunal was fully entitled to uphold the sub-committee's conclusions on both unsatisfactory professional conduct and the sanctions imposed on Ms Cannon.

**Disposal**

[25] The prayer of the petition is refused. The effect is that the tribunal's decision stands.