

**THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
(SSDT 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

ANDREW GERALD LINGARD c/o HMP Edinburgh, 33
Stenhouse Road, Edinburgh (hereinafter referred to as "the
Respondent")

By Video Conference, 15 October 2025. The Tribunal, having heard submissions from both parties: Refuses the Respondent's motion under Rule 6(2) of the SSDT Rules 2024; Refuses the Respondent's motion for anonymity in any publicity *in hoc statu*; And, on joint motion, sets down a virtual Hearing at 10am on 27 November 2025.



**Beverley Atkinson
Vice Chair**

NOTE

This Procedural Hearing was set down for the Tribunal to consider the motions of the Respondent: (a) under Rule 6(2) of the SSDT Rules 2024 (“the 2024 Rules”) to hear the Complaint in private; and (b) for the Respondent to be anonymised in any publication. The Complainers had intimated their opposition to both motions. Subsequently, the Respondent lodged a motion for this Procedural Hearing to be held in private, to which the Complainers had also objected.

The Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was present and was represented by James Mulgrew, Solicitor, Glasgow.

There, in fact, being no observers to the virtual Procedural Hearing, the Respondent withdrew his motion relating to the present Hearing. The Tribunal proceeded to hear submissions from both parties.

SUBMISSIONS FOR THE RESPONDENT

The Respondent drew the Tribunal’s attention to the content of his motions contained in Form J, together with the Inventories of Productions he had lodged in support of the motions. He submitted that the legal framework for his applications was set out in Rule 6 of the 2024 Rules, which provides for the possibility of a hearing in private and lays the basis for the application for anonymisation of the Respondent in the decision of the Tribunal.

Mr Mulgrew stated that the principles of open justice stemmed from Article 6 of the European Convention of Human Rights (“ECHR”), which itself draws on Article 8. He directed the Tribunal to Articles 3, 16 and 19 of the United Nations Convention on the Rights of the Child, which, through Section 6 of the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Act 2024, he submitted should inform the Tribunal of the approach to be taken in determining how to balance the various rights and duties under the ECHR. Mr Mulgrew stated that Article 6 of the ECHR set out special exceptions to the requirement of a public hearing and he relied in particular on two of these in his application: (a) the interests of public order and (b) the interests of juveniles. He stated that he recognised the restrictive terms of paragraph 14A of Schedule 4 to the Solicitors (Scotland) Act 1980 (“the 1980 Act”), but stated that his submissions went beyond damage to the mere “interests” of persons. He said that the risks here were of physical assault to the Respondent, possible effects upon the Respondent’s wife and child, and an impact on Police Scotland and the Scottish Prison Service.

Mr Mulgrew directed the Tribunal's attention to his Production headed "SPS Subject Access Request Intelligence Information". He submitted that this set out threats made to the Respondent in prison in July 2023, intelligence entries about threats in September 2023, an assault on the Respondent in June 2024 and then further intelligence about the threat/plan of an assault in June 2024. He explained that in November 2024, as a result of all of this, the Respondent was transferred to HMP Saughton.

He invited the Tribunal to consider the terms of the impact documents he had lodged with his First Inventory of Productions. He confirmed that there had been no further incidents since the Respondent had been transferred and stated that Saughton was a better environment for the Respondent. Mr Mulgrew emphasised that the concern here was that further publicity, as a result of Tribunal proceedings, would cause further incidents of potential harm to the Respondent. He submitted that the media are likely to use these proceedings as a reason to re-report the criminal proceedings. He directed the Tribunal's attention to the copy newspaper articles included in his Second Inventory of Productions.

Mr Mulgrew invited the Tribunal to hold that there were compelling reasons why it was in the interests of justice that the hearing be conducted in private and that these reasons outweighed the public interest in holding the hearing in public. He summarised his reasons as: (a) the interests of public order and impact on Police Scotland and the Scottish Prison Service in having to deal with potential crimes of violence against the Respondent and his family; and (b) the interests of juveniles and the protection of the private life of the parties, having regard to the psychological impact upon the Respondent's family and the impact upon visits between the Respondent and his child in prison.

Mr Mulgrew argued that the logical extension of a decision to hold the hearing in private was that any published decision would require to be anonymised. He submitted that the terms of any published decision could be set out in a way that met the public interest but avoided the potential of jigsaw identification of the Respondent, that might lead to media reporting. He explained that the Respondent acknowledged that the crimes he was convicted of were abhorrent and not compatible with him continuing to practise as a solicitor. He stated that the convictions and likely strike off would have life-long consequences for the Respondent. Mr Mulgrew submitted that the public's confidence in the Tribunal would not be diminished by the Respondent being anonymised in the Tribunal's decision. He explained that the decision could contain the essential details together with cogent reasons for the hearing being conducted in private and the Respondent being anonymised. He argued that the public would recognise and understand that the Respondent had already been denounced in public with the criminal conviction and sentencing taking place in public. He argued that this approach was compatible with dealing with the case fairly and justly.

Mr Mulgrew emphasised that the Respondent's reasons for requesting anonymity go beyond the mere interests of the Respondent and his family. He submitted that there would be an impact on the Scottish Prison Service and Police Scotland as a result of media reporting. He argued that the 1980 Act refers only to "interests" of the Respondent and his family, but here the Tribunal was dealing with the risk of damage to the health of the Respondent and his family.

Mr Mulgrew referred the Tribunal to two authorities produced by the Fiscal. The first of these, SRA v Spector [2016] 4WLR 16, he said indicated that a departure from the principle of open justice has to be justified. He submitted that the interests of justice in the Respondent's case would bring it within the scope of qualifying for anonymity under the case of Spector. With regard to the second case, In re S (a child) [2004] UKHL 47, Mr Mulgrew referred the Tribunal to paragraphs 18 and 25 and emphasised that this case confirmed that the "court" should examine an application for anonymity with care and that the "indirect" impact of publicity on a child was relevant.

In response to a question from the Tribunal, Mr Mulgrew emphasised that his argument was not simply based upon the impact on the Scottish Prison Service and Police Scotland. He was inviting the Tribunal to consider whether Paragraph 14A of Schedule 4 to the 1980 Act was compatible with ECHR. He emphasised that the 1980 Act clearly pre-dated the Human Rights Act 1998 and Section 6 of the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Act 2024. He was inviting the Tribunal to take an approach that was not a strict interpretation of Paragraph 14A but was an interpretation of that provision which was compatible with ECHR.

Mr Mulgrew asked the Tribunal to consider if it was necessary in the public interest for the Tribunal to act in a way that repeats a risk of harm to the Respondent and his family. He argued that a reasonable, informed member of the public would understand that there was no need for the Respondent to be denounced in the public again. He emphasised that the conduct involved in this case occurred when the Respondent was either a student or trainee and not in the course of his role as a solicitor.

SUBMISSIONS FOR THE COMPLAINERS

The Fiscal confirmed that both motions for the Respondent were opposed. He reminded the Tribunal of the strict test set out in Rule 6(2) and submitted that the reasons set out by the Respondent within Form J did not outweigh the public interest in the hearing being held in public.

The Fiscal emphasised that the requirement for open justice is set out in the ECHR. He stated that if the motions were successful and this hearing was held in private, and the decision was anonymised, then this

would result in these proceedings being held in secret. He argued that holding the proceedings in public was one of the fundamental ways the Tribunal could maintain the confidence of the public.

The Fiscal emphasised that the details of the Respondent's conviction were already in the public domain and that these proceedings would not add anything new.

The Fiscal submitted that the Tribunal required to interpret the 1980 Act in line with the ECHR and the United Nations Convention on the Rights of the Child. He noted that the Respondent had referred to Article 3 of the United Nations Convention on the Rights of the Child but argued that Article 3 was not relevant to these proceedings as they did not "concern" the child. He referred the Tribunal to the case of In re S, which considered the balancing approach to be taken where the rights under Article 6 and 8 conflict. He drew the Tribunal's attention to the four step approach referred to at paragraph 17 of that decision. He submitted that the Tribunal required to begin with its statutory obligation under the 1980 Act and then it required to consider the competing rights under Article 6 and 8 of the ECHR. The Fiscal referred the Tribunal to the case of Spector, which he said emphasised the importance of "open justice" which included both the hearing being held in public and the proceedings being reportable. He invited the Tribunal to consider the ongoing consequences an order of anonymity would have.

The Fiscal submitted that the information before the Tribunal did not address present risk but was 14 months old. He submitted that the press releases produced by the Respondent were not sensationalised; properly identified the Respondent, but not his family. He stated that the social media posts produced were not unlawful.

The Fiscal emphasised that the obligation to protect the Respondent lay with the Scottish Prison Service who had already taken steps to do so. He confirmed that he would make no reference to the Respondent's family in these proceedings. He said he was not aware of any direct contact between the Respondent or his family and the victims. At its highest, he understood that the Respondent's concern was for the potential for this to happen. The Fiscal submitted that this was a risk that fell appropriately within the obligations of Police Scotland and that this was sufficient to meet the requirements of the ECHR.

The Fiscal submitted, that in the circumstances of this case, the obligation of open justice prevailed.

RESPONSE BY THE RESPONDENT

Mr Mulgrew explained that this application was based upon "an anxiety" that there would be further reporting of the Respondent's prosecution which might lead to similar issues as had already arisen. The matters referred to in the Scottish Prison Service intelligence information arose because of the reporting that took place at the

time of the conviction and sentence. He reminded the Tribunal that a police officer had required to attend at the home of the Respondent's wife.

QUESTIONS FROM THE TRIBUNAL

The Tribunal invited both parties to clarify how they considered the Tribunal should approach balancing the 1980 Act with Article 3 of the United Nations Convention on the Rights of the Child.

The Fiscal responded that Article 3 was not relevant to these proceedings as the Tribunal's decision did not "concern" the child.

Mr Mulgrew submitted that Section 6 of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 compelled the Tribunal to act in a way which was compatible with the United Nations Convention on the Rights of the Child. Article 3 of the United Nations Conventions on the Rights of the Child compelled the Tribunal to have the best interests of the child as its primary consideration. He submitted that the words "in all actions concerning children" used in Article 3 included decisions that indirectly affect children.

DECISION

The 2024 Tribunal Rules set out in Rule 6(1) that hearings will be held in public but make provision in Rule 6(2) for all or part of a hearing to be heard in private "provided that this is in the interests of justice and that to do so outweighs the public interest in holding the hearing in private".

This Tribunal has previously acknowledged that the ECHR applies to its procedure.

The first of the Respondent's motions was for the Tribunal to hold that it is in the interests of justice to hear this case in private and that the reasons for doing so outweighed the public interest in holding the hearing in public. The reasons relied upon were: a) the risk of harm to the Respondent, b) the psychological impact upon the Respondent's wife as a result of her anxiety over the risk of harm to the Respondent, c) the potential for an impact upon the Respondent's child, and d) the impact on public order affecting the Scottish Prison Service and Police Scotland. The Respondent argued that his family's rights under Article 8 should override the principle of open justice under Article 6.

The Tribunal accepted that it required to carry out a balancing process that is proportionate and fair. The principle of open justice is of fundamental importance to Tribunal proceedings. It is part of the Tribunal's

role to maintain public confidence and the reputation of the profession both of which require that the decision-making process be transparent and open, not secretive and behind closed doors. This principle is, however, not absolute in its terms and that is recognised by Rule 6(2).

The Tribunal was not satisfied that the Respondent had established that it is in the interests of justice for the hearing of this Complaint to be in private. The details of the Respondent's conviction and sentence are already in the public domain. The motion was based on an "anxiety" around the possibility of a re reporting of the case in the media and social media. There was no suggestion of any direct threat to the Respondent's wife or child. The Scottish Prison Service have a duty of care to the Respondent and the circumstances of the Respondent do not appear to be exceptional or unusual. The potential impact upon public order did not appear either exceptional or unusual. On the other hand, the Tribunal considered that any member of the public, being aware of the conviction and sentencing of a solicitor for offences of this gravity, would have a legitimate expectation that appropriate disciplinary proceedings would follow.


The Respondent submitted that Article 3 of the United Nations Convention on the Rights of the Child compelled the Tribunal to have the best interests of the child as its primary consideration. The Fiscal submitted that Article 3 had no relevance to proceedings as the Tribunal's decision would not concern the child. The Tribunal was not satisfied that these proceedings are an "action concerning children". The child is not a party to, witness in or subject of these proceedings. There is no suggestion of a direct threat of harm to the child. The Tribunal refused the Respondent's motion under Rule 6(2).

With regard to the motion for anonymity of the Respondent in any publicity, the Tribunal considered that this was a matter for the Tribunal dealing with the substantive hearing, which would be in possession of the full information and would normally make such decisions. This motion was refused *in hoc statu*.

FURTHER PROCEDURE

Both parties invited the Tribunal to fix a virtual, substantive Hearing and confirmed that neither intended to lead any parole evidence. Both parties confirmed they had no further motion to make.

The Tribunal set down a virtual, substantive Hearing for 10 am on 27 November 2025.



Beverley Atkinson
Vice Chair