

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

**I N T E R L O C U T O R**

in Appeal under Section 42ZA(10) of the Solicitors  
(Scotland) Act 1980 as amended

by

EMMANUEL ANOLIEFO, HMP Low Moss, Crosshill  
Road, Bishopbriggs, Glasgow

Appellant

against

THE COUNCIL OF THE LAW SOCIETY of SCOTLAND,  
Atria One, 144 Morrison Street, Edinburgh

First Respondent

and

HAROUN T MALIK, MCO Defence Solicitors, 1<sup>st</sup> Floor  
Office. 2, 20 Carlton Place, Glasgow

Second Respondent

By Video Conference, 17 September 2025. The Tribunal having considered the Appeal under Section 42ZA(10) of the Solicitors (Scotland) Act 1980 by Emmanuel Anoliefo, HMP Low Moss, Crosshill Road, Bishopbriggs, Glasgow ("the Appellant") against the Determination of the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh ("the First Respondent") dated 12 December 2024 to take no further action in respect of a complaint of unsatisfactory professional conduct made by the Appellant; upholds the First Respondent's preliminary pleas in relation to a lack of relevancy and specification concerning the Appellant's grounds of appeal dated 31 January 2025; dismisses the Appeal in terms of Rule 50(5) of the Scottish Solicitors Discipline Tribunal Rules 2024 ("the 2024 Rules"); Finds the Appellant liable in the expenses of the First Respondent chargeable as same may be taxed by the Auditor of the Court of Session on a party and party basis in terms of Schedule 1 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019 as amended with a unit rate of £18.00; Directs that publicity will be given to this decision.

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

## NOTE

A virtual Preliminary Hearing called on 17 September 2025. The Appellant was present and unrepresented. The First Respondents were represented by their Fiscal, Gavin Whyte, Solicitor, Edinburgh. The Second Respondent had not entered proceedings and was not present or represented.

The Appellant had lodged an Appeal in terms of Section 42ZA(10) of the Solicitors Scotland Act 1980 on 31 January 2025. Answers were lodged on behalf of the First Respondent. At a virtual procedural hearing on 4 June 2025, the Tribunal fixed a Preliminary Hearing in terms of Rule 50(1) based on the Fiscal's oral submissions that the Appeal was lacking in specification and relevancy. The oral submissions were followed by a written Note of Argument. The Tribunal made Case Management Directions to ensure that proceedings progressed and that disclosure was given to the Appellant. The Appellant was given an opportunity to lodge a response to the Fiscal's written Note of Argument on the preliminary pleas and he did so thereafter. Parties lodged various productions and authorities in support of their written submissions. These were considered by the Tribunal.

At the Preliminary Hearing, the motion on behalf of the First Respondent was to uphold preliminary pleas of lack of relevancy and specification concerning the Appellant's grounds of appeal dated 31 January 2025 and, thereafter, to dismiss the appeal in its entirety. Having considered the written submissions, it was unclear to the Tribunal whether the First Respondents were also presenting a plea to the competency. The Fiscal confirmed that was not the case and clarified that submissions for the First Respondent related to pleas of lack of relevancy and specification only. The Appellant opposed both parts of the motion.

At the outset of the Hearing, the Appellant stated that his oral presentation may reflect his Nigerian origin and asked the Tribunal to be mindful of cultural differences which may occur; he did not wish to appear aggressive or disrespectful. The Tribunal noted this and assured the Appellant that he would be treated fairly and with dignity. The Tribunal also noted that, although English was the Appellant's second language, he did not require the services of an interpreter and considered himself sufficiently fluent in English to understand these proceedings and represent himself; this had been addressed at a previous procedural hearing of the Tribunal. The Appellant agreed. The Tribunal also stated that its members had received, and thoroughly read, all the papers lodged by parties and would consider these as appropriate.

Given that the Appellant was not represented or legally qualified, and in order to ensure that the Hearing progressed fairly and efficiently, the Chair clearly explained the defined parameters of the statutory procedure in relation to the Appeal and outlined the powers and procedures of the Tribunal in relation to that. He also narrated the procedural history of the Appeal. The Chair emphasised that the matters for consideration at the



Preliminary Hearing were narrow and focused on the two points which were considered by the First Respondent's Professional Conduct Sub-Committee ("PCSC") and on which they decided to take no further action (decision dated 12 December 2024). As a result of that decision, there was no finding of unsatisfactory professional conduct in relation to the Second Respondent. The Appellant disagreed with that decision. The two issues for consideration by the PCSC were as follows:

1. *"Issue 3 – Mr Malik.....failed to treat [the Appellant] with respect in that he pressured [the Appellant] to hurry the case along by saying that the advocate would not act for me if I did not."*
2. *Issue 11 – Evidence – Mr Malik and/or the firm of MCO Defence Solicitors failed to act on my instructions to appeal my conviction."*

Specifically, the Tribunal in this Hearing required parties to address it on the grounds of appeal set out in the case of Hood v Council of the Law Society of Scotland 2017 SC 386. The Tribunal definitively stated that it could not deal with any matters pertaining to the Appellant's original trial or consider any new information or evidence, no matter how frustrated the Appellant may be with the criminal justice system overall. Those matters were not within the Tribunal's remit. The matters for consideration were the First Respondent's preliminary pleas of lack of relevancy and specification in the first instance. It was also made clear to parties that, in terms of Rule 50(5) of the 2024 Rules, the Tribunal had the power to dismiss the Appeal at the Hearing, depending on its decision following submissions. The Tribunal had in no way pre-judged the situation and would listen to all submissions before making a decision but considered it important that the Appellant understood that the Tribunal had the power to bring the case to an end at the conclusion of this Hearing. The Appellant confirmed that he understood the explanations given and was happy to proceed on that basis.

The Fiscal was invited to make submissions. He invited the Tribunal to uphold the preliminary pleas of lack of relevancy and specification of the Appeal and, thereafter, to dismiss the Appeal entirely in terms of Rule 50(5). He referred to the Appellant's eight grounds of appeal dated 31 January 2025 and submitted that, in consideration of those, the Tribunal could only apply the principles contained in Hood, supra ("the Hood Principles"), namely that the Tribunal should only interfere with a decision not to make a finding of unsatisfactory professional conduct if:

- (a) The Sub-Committee's reasoning discloses an error of law, which may be an error of general law or an error in the application of the law to the facts;
- (b) The Sub-Committee made a finding for which there is no evidence or which is contradictory of evidence;

- (c) The Sub-Committee made a fundamental error in its approach to the case, as by asking the wrong question or taking account of manifestly irrelevant considerations, or arriving at a decision that no reasonable Sub-Committee could properly reach.

The Fiscal stated that he had encountered difficulties in ascertaining the relevance of points made by the Appellant to the Hood Principles. He made reference to each ground of appeal as follows:

### **Ground 1**

*“The decision makers acted unlawfully”.*

Although unclear to him, the Fiscal reconciled that this may relate to the first Hood Principle narrated at (a) *supra* but submitted that the Appellant had made this generic statement but had given no arguments in support of that.

### **Ground 2**

*“The decision was made using an unfair procedure”.*

The Fiscal noted that the Appellant’s written submissions made reference to the Criminal Procedure (Scotland) Act 1995, Legal Aid (Scotland) Act 1986, Human Rights Act 1998 and some case law. He submitted that none of those sources were relevant to the role or decision of the PCSC in this case. The Fiscal said he struggled to see the relevance of this ground to any of the Hood Principles but recognised that it may link to principle narrated at (b) *supra*. However, if the Appellant was relying on that Hood Principle, the Fiscal submitted that he had not outlined any cogent arguments to support that position.

### **Ground 3**

*“The decision was so unreasonable as to be irrational”;*

*and*

### **Ground 4**

*“Legitimate expectations and proportionality was flawed”*

The Fiscal argued that the Appellant had not presented any arguments relevant to the Hood Principles in relation to either of these grounds. He said that he did not understand the points being made by the Appellant here. His position in relation to ground 3 in particular was that there was simply “no error” by the PCSC.

### **Ground 5**

*“A public authority has acted in a way which is incompatible with Human Rights that are given effect by the Human Rights Act 1998”.*

The Fiscal submitted that this statute was not relevant to the role or decision of the PCSC in this case.



**Ground 6**

*“Public law/administrative law flawed”.*

The Fiscal submitted that general, unspecified principles of public law were not relevant to the role or decision of the PCSC in this case. In any event, the Appellant had not made any supporting arguments.

**Ground 7**

*“Constitutional law flawed on its status/provision”.*

The Fiscal submitted that a general reference to constitutional law was not relevant to the role or decision of the PCSC in this case.

**Ground 8**

*“Impartiality and biased decision”.*

The Fiscal submitted that this ground made reference to irrelevant case law which did not affect the role or decision of the PCSC in this case.

Thereafter, the Fiscal argued that the PCSC in this case had decided that the tests for unsatisfactory professional conduct (defined in Section 46(1), Legal Profession and Legal Aid (Scotland) Act 2007) and professional misconduct (as per Sharp v The Council of the Law Society of Scotland 1984 SLT 313) in relation to the conduct of the Second Respondent had not been met. He pointed out that the Reporter to the PCSC had considered the Second Respondent’s file and the information provided by the Scottish Legal Complaints Commission (“SLCC”) when making the recommendation.

The PCSC had considered (i) the Reporter’s recommendation (ii) a letter from the Appellant dated 25 September 2024 (iii) the Reporter’s supplementary recommendation, and (iv) a letter from the Appellant dated 4 November 2024. The PCSC had considered all relevant information placed before it and, therefore, it was not valid to say that the PCSC did not consider any contradictory evidence or make a finding based on no evidence.

Acknowledging again that the Appellant was unrepresented and not legally qualified, the Tribunal asked the Fiscal whether he had considered all the Appellant’s submissions. The Fiscal confirmed that he had read the voluminous papers lodged by the Appellant in detail and this had taken some time. Although the Fiscal stated that he was aware of the Appellant’s frustration with the criminal justice system overall, he submitted that much of the information lodged with the Appeal was irrelevant to these proceedings and asked the Tribunal to disregard it.

The Appellant was given an opportunity to break before making submissions but said he was happy to proceed. He said that he understood the Fiscal’s point that matters relating to his original trial were not for consideration

at the Hearing. The Chair again emphasised that the Appellant's submission must focus on the narrow points of appeal already discussed.

The Appellant stated that he was relying on his written submissions. He declared that he was in this position due to the criminal case against him and argued that the Hood Principles were not relevant because that was a civil case. The Appellant made a passing reference to an opinion of the Lord Justice Clerk in an unidentified case, a "Code of Conduct" for Solicitors and the Human Rights Act 1998.

The Tribunal pointed out that Appellant's approach was incorrect. The Chair explained that, although criminal and civil law in Scotland are distinct and that Hood was a court decision in respect of a civil law matter, the case applied to these disciplinary proceedings and, therefore, was applicable to the matters before the Tribunal.

The Appellant confirmed that he understood and continued with his submissions. He opposed both parts of the Fiscal's motion and submitted that there was a "case to answer". The Appellant cited section 97 of the Criminal Procedure (Scotland) Act 1995 which relates to "no case to answer" in criminal law procedure and stated that it is the sufficiency of evidence which is of importance, not the quality of it.

A member of the Tribunal stated that he was having difficulty following the Appellant's submissions and requested clarification. The Chair asked the Appellant to explain the relevance of his submissions to the Hood Principles already described.

In response, the Appellant submitted that, in terms of "general law", the Tribunal have the power to look at all documents and evidence and consider the sufficiency of that. He believed that the First Respondent did not take all the information into account when making their decision dated 12 December 2024 and asked the Tribunal to consider that.

Referring to the second Hood Principle, the Appellant stated that the PCSC made a finding without supporting evidence but did not point to any information in support of that proposition. His submission was unclear to the Tribunal. In order to assist, the Chair reminded the Appellant that the First Respondent's position was that he had not explained how the PCSC had contravened the Hood Principles. The Tribunal had read the written information provided and understood the facts and circumstances described therein. They appreciated that the Appellant's recollection differed from the information in Mr Malik's file for example. Simply put, the PCSC is entitled to prefer one version of events over the other. To succeed in this Appeal, the Appellant must

clearly demonstrate that an error was made by the PCSC as defined by the Hood Principles. It is not enough to simply disagree with their decision. The Chair asked the Appellant to point the Tribunal to his grounds of



appeal which address those key issues. The Appellant asked if he was required to “connect” his grounds of appeal with the Hood Principles. The Tribunal replied that it would greatly assist them if he could do so. After discussion, the Tribunal adjourned to allow the Appellant to reflect and formulate his response accordingly.

When the Hearing re-convened, the Appellant stated that he wanted his Appeal to progress. In relation to the Fiscal’s plea to the relevancy, the Appellant referred to the second Hood Principle and stated that the PCSC’s decision which was so unreasonable to be irrational and flawed. The Tribunal asked the Appellant to direct them to the information submitted which showed that the PCSC either (i) made an error of law, (ii) made a finding for which there was no evidence, or (iii) made a fundamental error in approach. In response, the Appellant stated that the “decision maker” acted unlawfully in relation to “rules of law” and took into account evidence which it should not. He also submitted that the First Respondent had acted so unreasonably as to be irrational and referred to grounds 3 and 4 of his appeal. He stated that the PCSC made a finding without evidence but did not provide any further detail. The Appellant submitted that the PCSC failed to address the issue of “conflict of interest” and said that the Reporter had failed to justify his “findings” based on any evidence. The Appellant cited the case of Woodside v HMA and referred again to the Human Rights Act 1998.

In response, the Fiscal submitted that it was not possible to conclude that there had been any contravention of the Hood Principles based on the Appellant’s submissions. It was simply not sufficient for the Appellant to make general references to legislation and “general law” without providing detail of the relevancy of that. The Appellant’s point about “conflict of interest” was unclear and irrelevant and he had provided no evidence in support of his position. The Appeal lacked relevancy and specification. The Fiscal invited the Tribunal to uphold his preliminary pleas and thereafter dismiss the Appeal entirely.

The Appellant was given a final opportunity to comment. He stated that there was no evidence that the First Respondent had carried out an investigation into his original complaints about the Second Respondent. He said he could not understand why the First Respondent had not made a finding in respect of the “Code of Conduct”. In relation to the Fiscal’s motion, the Appellant said it would be irrational to dismiss his Appeal as, in his submission, there was sufficient evidence to show an error in the First Respondent’s judgement. The Appellant had no further comments.

The Tribunal gave careful consideration to all submissions and information presented to it. It appreciated the time, effort and careful preparation of both parties in presenting their respective positions at the Hearing. It was of paramount importance to the Tribunal that proceedings were conducted fairly and efficiently. In terms of Rule 4 of the 2024 Rules, the “overriding objective” of the Tribunal in applying its rules, *“is to enable the Tribunal to deal with cases fairly, justly and efficiently, always in accordance with the law and rules of natural*

*justice*". The Tribunal recognised that the Appellant was unrepresented and had made multiple efforts to assist his understanding of these proceedings with a view to ensuring fair, effective and open justice.

The applicable provisions relating to the substantive matters at issue were Rules 50(1) and 50(5) of the 2024 Rules. Rule 50(1) states that *"The Tribunal may direct that any question of fact or law which appears to be in issue may be decided at a preliminary hearing."* Rule 50(5) states that *"If, in the opinion of the Tribunal, a decision on the preliminary question of fact or law mentioned in (1) substantially disposes of the whole case, the Tribunal may treat the preliminary hearing as a hearing of the case and may give such direction as it thinks fit to dispose of the case, always in accordance with these rules."*

The preliminary pleas of the Fiscal raised matters of law for consideration. The Tribunal had to consider whether the Appeal lacked in relevancy and specification. The legal position on specification of pleadings is described in Macphail's Sheriff Court Practice (Fourth Edition) at paragraph 9.28:-

*"A party's averments.....must specify sufficient facts to allow the party to lead all the evidence desired to be lead at the inquiry, and to give the opponent fair notice of what the party hopes to establish in fact; and they must present, together with the pleas-in-law, a relevant claim or defence.....A plea to specification is very frequently combined with a plea to relevancy as a ground for dismissal....."*

In relation to relevancy, the case of JD v Lothian Health Board [2017] CSIH 27 explains the law:-

*"The relevancy of averments is determined by assuming that a party proves everything he sets out to prove, no more, no less, and then asking the question: in these circumstances does the law give him the remedy he seeks? If the answer to that question is in the negative then there is no purpose to leading evidence to prove the averments and the action must be dismissed as irrelevant."*

The Tribunal had read and considered the Appellant's voluminous written submissions in detail. Much of that information recounted the Appellants frustration with the criminal justice system overall and cited statutes and case law in general terms. No specific points of authority were referred to by the Appellant. This information was irrelevant to the Appeal and, therefore disregarded by the Tribunal.

The Chair had taken great care to explain the narrow focus of the proceedings in terms of the Hood Principles to the Appellant and checked his understanding. He had explicitly asked the Appellant to direct members to the sections of his Appeal which supported his general statements that the PCSC had contravened the Hood Principles and provided ample opportunity for the Appellant to reflect and compile a focused response. The Appellant's responses were of a general nature and did not relate to the specific Hood Principles. He did not




present any information demonstrating any flaws in the decision of the PCSC aforementioned. This lack of specification meant that the Respondents had no fair notice of the allegations being presented by the Appellant. Given that there were no specific or meaningful averments, the Appeal was irrelevant. The Tribunal unanimously decided to uphold the Fiscal's motion that the Appellant's grounds of appeal dated 31 January 2025 were lacking in specification and relevancy.

Thereafter, the Tribunal considered the application of Rule 50(5). The decision to uphold the Fiscal's preliminary pleas meant that there was no stateable case before the Tribunal. In those circumstances, the Appeal could not proceed and the Tribunal directed that it be dismissed.

The Tribunal asked parties for submissions on expenses and publicity. The Chair explained to the Appellant that, in the interests of open justice and transparency, the Tribunal is required to publish details of cases calling before it. Although there are some limited restrictions on publicity, those exceptions did not apply in this case.

The Fiscal moved for an award of expenses to be made against the Appellant following the success of the First Respondent at the Hearing. He requested an order for publicity in terms of Paragraph 14, Schedule 4 of the Solicitors (Scotland) Act 1980 and added that there was no need for exclusion in terms of Paragraph 14A thereof. The Appellant made no submissions in relation to expenses and publicity.

The Tribunal took account of its discretion to award expenses in relation to Appeals in terms of Paragraphs 19 and 23 of Schedule 4 of the Solicitors (Scotland) Act 1980 and also the terms of Rule 25(1) of the 2024 Rules. The Tribunal considered the specific circumstances of this case and made an award of expenses against the Respondent on the basis that the Appellant had been successful. In addition, the Tribunal ordered publicity of the decision in terms of Paragraph 14 and 14A, Schedule 4 of the 1980 Act.



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