

THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
(PROCEDURE RULES 2008)

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

ALASTAIR MCBEAN BLACKWOOD, HMP Castle
Huntly, Longforgan, Nr Dundee, DD2 5HL (hereinafter
referred to as "the Respondent")

By Video Conference, 28 August 2025. The Tribunal, having considered the submissions on behalf of the parties; Repels the objection of the Complainers to the Respondent's appointment of a lay representative; Allows the Answers lodged by the Respondent dated 14 July 2025 to be received late; Refuses to allow the Respondent's Preliminary Pleas (attached to the Answers dated 14 July 2025) to be received on the basis that it had already repelled same at the virtual procedural hearing on 15 May 2025; Grants the Fiscal's motion to amend the interlocutor dated 15 May 2025 to reflect the oral decision of the Tribunal in terms of Rule 49 of the Scottish Solicitors Discipline Tribunal Rules 2008, namely that the Respondent's preliminary pleas were repelled; Allows the Respondent 3 weeks from this date for adjustment) and the Complainers 2 weeks thereafter to lodge any subsequent adjustments; Directs the Complainers to lodge a Record by 2 October 2025; Refuses the Respondent's motion to dismiss the Complaint; Fixes a virtual procedural Hearing to take place on 15 October 2025 at 1pm; and Refuses the Respondent's motion to hold the Hearing in private in hoc statu.


Catherine Hart
Vice Chair

NOTE

On 28 August 2025, the Tribunal convened a preliminary hearing to consider a number of matters which had been raised by both parties in correspondence on various dates. The Complainers were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Respondent was present and accompanied by a lay representative, Iain Robertson.

The main issues for consideration were the two motions of the Respondent dated 18 June 2025 which contained the following requests:-

1. Motion 1: Paragraph 2- *“to deal with the Respondent’s Preliminary Pleas of (a) Mora, taciturnity and acquiescence, (b) Vexatious procedure by the Complainers (c) Resolution by the Tribunal to request agreement between the parties.”* i.e. preliminary pleas.

Paragraph 3 – to allow the Respondent’s Answers dated 14 July 2025 (second version) to be received late.

Paragraph 4 – *“to hold all hearings of the Tribunal in private in terms of Rule 42 of the [SSDT Rules] 2008.”*

2. Motion 2 under Rule 13 of the SSDT Rules 2008 asking the Tribunal to compel the Complainer to provide various information (the information requested was listed in 8 numbered paragraphs).

At the start of the hearing, the Fiscal formally objected to Mr Robertson’s appointment as lay representative but said he had no difficulty with Mr Robertson accompanying and assisting the Respondent. He drew a distinction between appearing as a lay representative and assisting or supporting the Respondent during proceedings.

The Tribunal had to consider this fully before hearing parties on the substantive issues. A summary of objections from the Fiscal had been sent to the Tribunal Office and intimated to the Respondent by email dated 5 August 2025. The Respondent indicated his concerns about possible prejudice to both him and Mr Robertson which may be occasioned by the objections. The Chair confirmed that she had seen the Fiscal’s email of 5 August 2025 as it was necessary for her to consider the correspondence prior to the hearing to decide on appropriate procedure. However, the other panel members present had not seen this email so there was no prejudice to the Respondent or Mr Robertson in that regard. The Chair then invited oral submissions from both parties on this matter.

The Fiscal's primary position on Mr Robertson acting as a lay representative in this case was that he could not be considered a "fit and proper" person to do so. He listed the following factors for consideration:-

1. Mr Robertson had been suspended from practice since 2016 as a result of the necessary appointment of a Judicial Factor in relation to his then firm, Robertson & Ross.
2. The appointment of a Judicial Factor was indicative of Mr Robertson's lack of integrity.
3. The Respondent and Mr Robertson were co-directors of the firm when the Judicial Factor was appointed.
4. Both the Respondent and Mr Robertson were suspended from practice as a result of the same matters.
5. The Respondent and Mr Robertson were both convicted on indictment as co-wrongdoers.
6. A potential or actual conflict would arise if Mr Robertson were to represent the Respondent.
7. It was a matter of public record that Mr Robertson had been convicted on 22 September 2022, on indictment, of offences involving handling criminal property.
8. Mr Robertson may face disciplinary proceedings as a result of allegations of handling the proceeds of crime. If convicted, he may be struck off the Roll of Solicitors.

In support of his position, the Fiscal cited *Disciplinary and Regulatory Proceedings (Tenth Edition) by Foster and Treverton-Jones*. Paragraph 9.38 deals with situations in which Respondents are assisted by non-legally qualified friends or colleagues ("McKenzie friends") in disciplinary proceedings. Paragraph 9.39 qualifies the position by stating that,

"As a general rule, therefore, disciplinary tribunals will ordinarily permit assistance by a non-legally qualified friend or colleague unless there is good reason not to, eg.....perhaps that the friend has been subject.....to disciplinary findings by the same disciplinary tribunal, such as a striking off, which makes the friend unfit to act as a representative."

Observing that this commentary applied to assistance (as opposed to representation) by non-legally qualified persons, the Fiscal argued that the test for lay representatives was even higher. Although Mr Robertson was suspended from practice (as opposed to being struck off), the Fiscal submitted that his history and circumstances would allow the Tribunal to decide that he was unfit to act as lay representative.

By way of comparison, the Fiscal highlighted that both the Court of Session and Sheriff Court Rules require applications for the appointment of lay representatives to be made in writing using a prescribed form. He explained that Rule 12B.2(4) of the Court of Session Rules stated that, *"The court may grant an application under paragraph (1) [i.e. to appoint a lay representative] only if it is of the opinion that it would be in the interests of justice to grant it."*

No such application had been made to the Tribunal by the Respondent and the Fiscal argued that, although the Tribunal Rules did not make similar express provisions for the appointment of lay representatives, it was appropriate for the Tribunal to apply the same test and consider whether it would be in the interests of justice to allow Mr Robertson to be so appointed in this case.

In addition, the Fiscal argued that Mr Robertson acting as a lay representative in this case could give rise to a conflict of interest. He noted that, in previous correspondence sent to the Tribunal by the Respondent, he had anticipated separate conduct complaints against him being raised, stating that he wanted all such matters to be conjoined before the Tribunal. Given the anticipated basis of those possible complaints, if Mr Robertson were to be the Respondent's lay representative and the cases were conjoined, this would create a conflict of interest. The Fiscal added that it would not be appropriate for Mr Robertson to represent the Respondent in a criminal court and, therefore, it was not appropriate for him to do so in Tribunal proceedings either.

Whilst acknowledging the Respondent's right to a fair trial in terms of Article 6 of the European Convention on Human Rights (ECHR), the Fiscal submitted that refusing to allow Mr Robertson to be his lay representative did not place him at a "substantial disadvantage" in these proceedings. The Respondent had been a practising solicitor, experienced in conveyancing practice. The basis of the Complaint before the Tribunal involved allegations of money laundering and matters within the Respondent's usual areas of practice and knowledge.

Practical issues were also raised by the Fiscal. A four day in person hearing had already been fixed. As Mr Robertson was also in custody following his conviction, he would require transport to the hearing by Scottish Prison Service (SPS) in order to represent the Respondent. The Fiscal submitted that this would not be an appropriate use of public resources nor a priority for SPS and would raise the potential for further delay in concluding these proceedings if both the Respondent and Mr Robertson were unable to attend in person.

Finally on this point, the Fiscal submitted that, given the nature of the above objections, it was not appropriate for Mr Robertson to respond to these on behalf of the Respondent and that the Respondent should be invited to comment himself. The Tribunal asked the Respondent for his views on that. He explained that Mr Robertson had prepared to respond and the Respondent wished him to do so on his behalf. The Tribunal considered that it would be fair and appropriate to allow Mr Robertson to respond on that basis.

In response, Mr Robertson argued that he was a fit and proper person to act as lay representative for the Respondent. He began by stating that any argument about conflict of interest arising from his representation of the Respondent was premature. Although he fully understood that there would be a conflict if proceedings against him and the Respondent were conjoined, that was a hypothetical point as there were currently no other Complaints before the Tribunal which created that difficulty.

Mr Robertson conceded that both he and the Respondent were suspended from practice and that a Judicial Factor was appointed as described by the Fiscal. He referred to minutes of an unidentified sub-committee meeting of the Complainers dated on or around 1 August 2019. These were not lodged in process and the Tribunal did not have sight of them. Mr Robertson said that the minutes recorded his suspension from practice and pointed out that they did not make reference to a striking off. He said the minutes also recorded that the Judicial Factor was appointed as there were no qualified persons left in the firm to allow the client account to be operated following the aforementioned suspensions. The client account was not in deficit.

In relation to his conviction, Mr Robertson said that it was currently being appealed. He had applied for leave to appeal to the Supreme Court. He narrated the technical nature of the argument being considered by the Scottish Criminal Cases Review Commission (SCCRC) in that regard. He expected an update on this matter from SCCRC in October 2025. If successful, Mr Robertson stated an intention to petition to quash his conviction.

The Fiscal said that the issue of an appeal was beyond his remit and sphere of knowledge and, therefore, he was unable to comment. However, he noted that there was no live appeal by Mr Robertson before the Court and said that therefore, the conviction stood.

In relation to these proceedings, Mr Robertson submitted that his involvement as lay representative for the Respondent would save time. If the Tribunal, at any point, had concerns about Mr Robertson's involvement as lay representative, it could intervene.

The Tribunal considered all the information presented to it. The starting point was that Respondents have a right to present their own case as they see fit and that includes appointing a representative. It was not for the Tribunal to determine the suitability of such a representative; that was a matter for the Respondent. Even if the Tribunal could determine the suitability or otherwise of a lay representative, there was no authority stating that they should consider whether the individual was a "fit and proper person" or displayed a "lack of integrity". Although those were matters which the Respondent *may* consider when selecting a representative, it was not for the Tribunal to consider the calibre of such individuals. The Tribunal would be slow to interfere with the manner in which parties present their cases. If, during the course of presentation, any representative behaved in an inappropriate way, then the Tribunal could intervene. If the presentation of the case somehow undermined the position of the Respondent, the Tribunal may consider that in the round in making its final decision. However, it was not for the Tribunal to pre-empt such matters based on the circumstances of the nominated representative.

The Tribunal had regard to the principles of natural justice including fairness to all parties. It concluded that it may be entitled to intervene regarding the appointment of a representative if the interests of justice were adversely affected. However, that had not been established here. On balance, the Tribunal did not consider that it would be in the interests of justice to interfere with the Respondent's choice of representative in this case and, therefore, repelled the Fiscal's objection.

In relation to the substantive matters, Mr Robertson invited the Tribunal to allow the second version of the Respondent's Answers (lodged on 14 July 2025), together with preliminary pleas, to be received late, in the interests of justice. If that motion was granted, Mr Robertson asked the Tribunal to grant a further period of adjustment on the basis that the Respondent's case was stateable but perhaps lacking in focus and clarity. Mr Robertson said he intended to narrow the issues by further adjusting the Answers.

He explained that the Respondent had tried to instruct a solicitor but had been unable to do so. Mr Robertson became involved as the Respondent's lay representative approximately one month prior to this hearing. At that point, the Respondent had lodged two versions of Answers and Preliminary Pleas following sundry procedure.

Mr Robertson said that the Respondent had not lodged Answers when the Complaint was originally served as a result of advice he received from indemnity insurers that he should not make any admissions in case this invalidated his policy cover. However, all insurance claims were now settled. The Respondent had also been advised, by his criminal law advisers, not to make any admissions in relation to these proceedings due to concerns that this may result in further criminal prosecutions against him. Mr Robertson then made reference to a "promise of immunity from prosecution" which he said the Complainers were aware of, but which the Respondent had not been assured of. The Fiscal said he had no information on, or knowledge of, this and was unable to comment. The information given by Mr Robertson here was vague, unclear and irrelevant. The Tribunal concluded that it could not consider this as insufficient information had been presented.

In addition, Mr Robertson said the Respondent was suffering from depression and high blood pressure and those conditions were worsened by these proceedings. He stated that the Respondent's health difficulties meant that he had not "grasped the nettle" earlier. However, now that the Respondent was engaged with the process, he required to access files, the firm server and to speak with members of his former staff from 2016. The Respondent's position was that he did not have all of the information necessary to present his case and, therefore, he had lodged a motion under Rule 13 of the 2008 Rules asking the Tribunal to compel the Complainers to provide certain "information".

The Fiscal opposed these motions and observed the "striking fact" that two sets of Answers had been lodged to date but the Respondent still required more time to adjust. The first set of Answers was a "blanket denial".

The second set was more detailed but failed to narrow the issues in dispute; for example, it did not respond to the 13 appendices attached to the Complaint.

If the Tribunal decided to allow the Answers dated 14 July 2025 to be lodged late, the Fiscal's position was that the preliminary pleas should be excluded. Firstly, there were insufficient averments to support them and he quoted paragraph 2.123 of *Sheriff Court Practice (Third Edition) by Lord Macphail* in support of this point. Secondly, he submitted that the Respondent's preliminary pleas had already been repelled by the Tribunal on 15 May 2025 and an attempt to re-raise those was *res judicata*. Noting that the decision to repel the preliminary pleas was not recorded in the interlocutor of 15 May 2025, the Fiscal moved the Tribunal to amend this clerical error under Rule 49 of the SSDT Rules 2008. Mr Roberston said that the Respondent could not recall the previous decision to repel the preliminary pleas although he was present at that hearing.

In relation to the reasons given for lack of initial engagement in these proceedings, the Fiscal submitted that the Respondent had simply chosen to take advice in relation to other matters and prioritise that, attaching little importance to these proceedings. Despite various opportunities given to the Respondent to obtain a Medical Report to substantiate his health conditions, he had failed to produce same.

Regarding the Respondent's Rule 13 motion, the Fiscal opposed this, explaining that he had used his best endeavours to make the productions available to the Respondent, taking account of his incarceration. He had provided a link to all the available files, which were voluminous. Mr Roberston said the Respondent had not received those and the Fiscal confirmed that copies of productions would be made available for the Respondent to uplift from his office. The Fiscal stated that the server was not in the possession of the Complainers. Mr Robertson made reference to correspondence between the Respondent and the Judicial Factor's office regarding this and suggested that the Complainers did, in fact, have access to the server. The Fiscal explained that the appointment of a Judicial Factor in this context was governed by section 41 of the Solicitors (Scotland) Act 1980. This provision allows the Council of the Law Society of Scotland to apply to the court for the appointment of a Judicial Factor in certain circumstances, however, the Judicial Factor was separate from the Complainers.

The Tribunal carefully considered all of the submissions made by both parties. These were complicated and intertwined and the Tribunal was keen to ensure fairness to both parties as well as clarity in procedure going forward. It was important to ensure that proceedings would progress without further delay. The Tribunal granted the Respondent's motion allowing the Answers dated 14 July 2025 to be received late. However, in light of the previous Tribunal decision on 15 May 2025, the preliminary pleas attached thereto were not permitted to be received. The Tribunal granted the Fiscal's motion to amend that interlocutor accordingly. Both parties were allowed a further period of adjustment and the Tribunal took account of the circumstances of the Respondent, allowing him an extra week to complete this task.

The preliminary pleas had included a written motion to dismiss the Complaint on the basis of an inequality of arms and in terms of the Respondent's Article 6 right to a fair trial. The Tribunal did not accept this argument. The Respondent had appointed a lay representative and had full opportunity to present his case as he saw fit. The Tribunal considers fairness to all parties at all points during proceedings and, therefore, did not consider that the Respondent was at a disadvantage in this regard. Therefore, the Tribunal refused the Respondent's motion to dismiss the Complaint.

Given the Tribunal's decision on the preliminary pleas, the Respondent no longer insisted on paragraphs 1-5, 7 and 8 of his Rule 13 motion. He insisted on paragraph 6 but the Tribunal refused to grant this on the basis that (i) it did not have the power to compel the Complainers to provide such information (ii) the location of the server was unknown but the Complainers were not in possession of it, and (iii) in any event, the request was lacking in specification. The Tribunal decided that it could not fully consider the Respondent's motion to hold the hearing in private as it was not presented with enough information and, therefore, that motion was refused.

The Tribunal fixed a virtual procedural hearing for 15 October 2025 to ensure that parties were fully prepared for the substantive hearing already fixed. It invited parties to consider whether agreement could be reached to narrow the issues in dispute and focus the proceedings.

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Catherine Hart
Vice Chair