

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

INTERLOCUTOR

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

by

DAVID MURPHY, 3 Hillhome, Portencross, West Kilbride,
Ayrshire

First Appellant

and

EVELYN BROWN, 3 Hillhome, Portencross, West
Kilbride, Ayrshire

Second Appellant

against

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

First Respondents

and

NEIL RANKINE, 29 Strathblane Road, Milngavie, Glasgow

Second Respondent

By Video Conference, 26 May 2026. The Tribunal having considered the Appeal under Section 42ZA(10) of the Solicitors (Scotland) Act 1980 by David Murphy and Evelyn Brown, 3 Hillhome, Portencross, West Kilbride, Ayrshire (“the Appellants”) against the Determination of the Council of the Law Society of Scotland, Atria One, 144 Morrison Street, Edinburgh (“the First Respondent”) dated 24 June 2025; upholds the First Respondent’s preliminary pleas in relation to a lack of relevancy and specification concerning the Appellant’s revised grounds of appeal dated 9 January 2026; dismisses the Appeal in terms of Rule 50(5) of the Scottish Solicitors Discipline Tribunal Rules 2024 (“the 2024 Rules”); Finds the Appellants 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.


Beverley Atkinson
Chair

NOTE

A virtual Preliminary Hearing called on 26 May 2026. The Appellants were present and represented themselves. The First Respondents were represented by their Fiscal, Breck Stewart, Solicitor Advocate, Edinburgh. The Second Respondent had not entered proceedings and was not present or represented.

The Appellants had originally submitted a complaint to the Scottish Legal Complaints Commission against Neil Rankine, Solicitor. Two conduct issues were referred to the Law Society of Scotland for investigation as follows:

“We, Mr David Murphy and Ms Evelyn Brown, wish to complain about Mr Neil Rankine of [Firm X], who we instructed on 27 January 2018 to act on our behalf in relation to our purchase of the property at 3 Hillhome, in that:

1. Mr Rankine [...] acted wilfully when he failed to discharge and execute transfer of the title between 26 April 2018 and 22 March 2020.
2. Mr Rankine [...] acted wilfully when he failed to communicate effectively with us between 26 April 2018 and 22 March 2020. He wilfully did not reply to our correspondence requesting updates on the transfer of the title.”

The allocated Reporter issued a recommendation dated 14 February 2025. The Reporter’s recommendation was assessed by the Professional Conduct Sub-Committee (“the PCSC”) on 29 May 2025. At this meeting, the PCSC agreed with the Reporter’s recommendation and decided that the appropriate course was to take no further action in respect of the Second Respondent in respect of the first conduct issue. In relation to the second conduct issue, the PCSC made a finding of unsatisfactory professional conduct and ordered payment of compensation in the sum of £1500.

The Appellants disagreed with the determination of the PCSC and thereafter lodged an Appeal with the Tribunal in terms of Section 42ZA(10) of the Solicitors (Scotland) Act 1980 (“the 1980 Act”) on 23 July 2025.

The First Respondent lodged Answers on 27 August 2025. The Answers contained a Preliminary Plea but did not address the individual grounds of appeal. On 4 September 2026, further Answers were submitted on behalf of the First Respondent. Following further procedure, the Appellants lodged a revised Appeal on 9 January 2026 and confirmed to the Tribunal that they were relying on that document.

At the Preliminary Hearing on 26 May 2026, the Tribunal had the following papers before it:- revised Appeal dated 9 January 2026, Answers for the First Respondent containing Preliminary Plea lodged on 27 August 2025, Supplementary Answers for the First Respondent dated 4 September 2025, Note of Argument for the First Respondent dated 17 March 2026, email from the Appellants dated 7 April 2026, List of Authorities for the First Respondent dated 19 May 2026.

The Fiscal raised two initial matters before addressing the Tribunal on the substantive Preliminary Pleas.

Firstly, the Fiscal moved for the Inventory of Productions lodged on 20 May 2026 to be lodged late. He explained that the case was assigned to him recently as his colleague (who had originally been dealing with the matter) was ill. As part of his preparation, the Fiscal concluded that the Reporter's Recommendation and Supplementary Recommendation were relevant to the case. He submitted that, in terms of Rule 44(d) of the Scottish Solicitors' Discipline Tribunal Rules 2024 ("the SSDT Rules"), the appeal should have been accompanied by the document(s) forming the basis of the decision made by the Professional Conduct Sub Committee ("PCSC"), namely the Reporter's Recommendation and Supplementary Recommendation. The Appellants had not lodged same with their revised Appeal but had been provided with those documents. The Fiscal submitted that there was no prejudice to the Appellants occasioned by the late lodging of this information. The Appellants confirmed that they had the documents contained in the Inventory of Productions produced by the Fiscal. They argued that they had insufficient time to consider the Fiscal's email but conceded that they had received the documents earlier in the complaints process. The Appellants submitted that the Fiscal's motion would cause further delay.

Secondly, the Fiscal invited the Tribunal to treat the two sets of Answers previously lodged on behalf of the First Respondent as one. He acknowledged that this was unusual in terms of practice but submitted that, although there were no formal Answers lodged in response to the amended appeal lodged on 9 January 2026, the Appellants had been given fair notice of the First Respondent's position in relation to their Appeal. The Fiscal had emailed the Appellants on 21 May 2026 setting out the documents upon which the First Respondents would rely at the Preliminary Hearing and he submitted that this was done to ensure that the lay Appellants were not at a disadvantage. If the Tribunal were not minded to grant this second motion, the Fiscal asked for further time to allow Answers to be redrafted.

The Appellants objected to the Fiscal's second motion. They submitted that they had insufficient time to consider the Fiscal's correspondence and described it as "non-sensical". They had sent an email response to the Fiscal on 25 May 2026 and referred to that. The Appellants submitted that the Fiscal's suggestion would cause further delay. The Tribunal confirmed with the Appellants that they had copies of all the documents listed in the Fiscal's email dated 21 May 2026.

The Tribunal carefully considered all the information before it. Rule 44(d) states that “*Any appeal shall.....be accompanied by a copy of the decision appealed against.*” The documents which the Fiscal sought to lodge preceded the PCSC’s decision but were taken into account as part of the decision making process. In all the circumstances, the Tribunal concluded that it would be of assistance to have sight of the Reporter’s Recommendation and Supplementary Recommendation which were before the PCSC when it made its decision. Although the late submission of productions was far from satisfactory, the Tribunal decided that it was in the interests of fairness to grant the Fiscal’s motion to allow the First Respondent’s Inventory of Productions to be lodged late. The Tribunal then adjourned to read these additional documents.

In relation to the Fiscal’s second request, the Tribunal granted the motion to allow the two sets of Answers for the First Respondent to be read as one. The Tribunal considered that it was in the interests of fairness to do so and, contrary to what the Appellants had said, concluded that proceeding in this way would reduce any potential delay in proceedings.

The Tribunal explained the parameters of the statutory procedure in relation to the Appeal to the Appellants, making it clear that the focus of the Preliminary Hearing was narrow and not an opportunity for a rehearing of the entire case. The Appellants stated that they considered that they were “up against the legal establishment” and facing a “blockage” in the system in terms of the position advanced on behalf of the First Respondents. They were aggrieved that the Second Respondent had not entered proceedings.

The Tribunal acknowledged that the Appellants were lay people and that the procedure may seem complicated. However, it reassured the Appellants that they would be given an opportunity to express their position. The Tribunal asked the Fiscal to present his submissions, as far as possible, in plain English and he agreed to do so.

The Tribunal reminded the Appellants that they had brought the Appeal, as they were entitled to do, and observed that the First Respondents were entitled to defend the decision of the PCSC accordingly. The Tribunal made it clear that the Fiscal was representing the First Respondents and not the Second Respondent, who was a separate party in these proceedings. The Tribunal also explained that the Second Respondent was under no obligation to take part in the Appeal proceedings. The Fiscal was then invited to make submissions in relation to the Preliminary Pleas on behalf of the First Respondents.

SUBMISSIONS FOR THE FIRST RESPONDENTS

In terms of the substantive matters before the Tribunal, the motion on behalf of the First Respondents was to uphold their Preliminary Pleas of lack of relevance and specification in relation to the revised Appeal dated 9 January 2026 and as detailed in the Note of Argument dated 17 March 2026 and, thereafter, to dismiss the

appeal in its entirety in terms of Rule 50 of the Scottish Solicitors' Discipline Tribunal Rules 2024 ("2024 Rules"). The Fiscal did not insist on the plea to the competency detailed in the written Note of Argument and moved for that to be deleted from the pleadings.

The Fiscal sought to set out the legal position in relation to the Preliminary Pleas. He referred to the List of Authorities lodged on behalf of the First Respondents. In particular, reference was made to item 2, namely an extract from Macphail on Sheriff Court Practice (Fourth Edition), Chapter 9 on "Written Pleadings" at paragraph 9.03 which states:-

"The objects sought to be attained by our system of pleading are, (1) the full disclosure of the facts; and (2) the full statement of the grounds of action and defence in law, as connected with those facts"

Moving to paragraph 9.04 of the same text, the Fiscal quoted as follows:-

"The presentation of each party's case in the written pleadings has the important effect of giving notice of the case to the court and to the opponent, and of providing for each party a summary of the matters which must be proved and the arguments which must be presented in order to succeed in the claim or defence."

The terms of paragraph 9.05 were also quoted:-

"The importance of giving notice of each party's case to the court arises from the consideration that the court is limited to granting the remedy craved and to deciding the case on the basis of pleadings."

The Fiscal submitted that the Tribunal can only make a finding based on what one party says. To go wider than that would mean that no fair notice of the issues in dispute is given. In support of that point, the Fiscal referred to paragraph 9.07 of Macphail which states:-

"The function of pleadings is to give fair notice of the case which has to be met so that the opposing party may direct his evidence to the issue disclosed by them."

When asked, the Fiscal confirmed that the First Respondents' position was that the Appeal submitted in this case does not give fair notice. In the first instance, he intended to give an overview of what the law requires in terms of fair notice. He referred to the case of Morrison's Associated Cos v James Rome & Sons Ltd 1964 SC 160 (number 3 on the List of Authorities for the First Respondents) as authority for the argument that parties may only succeed on the basis of what is written down.

The Fiscal acknowledged that the Appellants in this case were party litigants and made it clear that he was not seeking to take advantage of that; as an example, the Fiscal sought to lodge the Reporter's Recommendation and Supplementary Report when he was preparing for this Hearing. He submitted that, although it was technically incumbent on the Appellants to lodge that information, they had not done so, and the Fiscal had not taken issue with that oversight.

In support of his argument, the Fiscal cited the Supreme Court decision of Barton v Wright Hassall LLP [2018] 1 WLR1119. Noting that the decision was split, he advanced the case as authority that a party litigant should not be excused from compliance with rules and quoted the opinion of Lord Sumption at page 1129 of the case as follows:-

"Turning to the reasons for Mr Barton's failure to serve in accordance with the rules, I start with Mr Barton's status as a litigant in person. In current circumstances any court will appreciate that litigating in person is not always a matter of choice. At a time when the availability of legal aid and conditional fee agreements have been restricted, some litigants may have little option but to represent themselves. Their lack of representation will often justify making allowances in making case management decisions and conducting hearings. But it will not usually justify applying to litigants in person a lower standard of compliance with rules or orders of the court... .. The rules provide a framework within which to balance the interest of both sides. That balance is inevitably disturbed if an unrepresented litigant is entitled to greater indulgence in complying with them than his represented opponent. Any advantage enjoyed by a litigant in person imposes a corresponding disadvantage on the other side...."

The Fiscal reiterated that, in the case before the Tribunal, allowances had been made for the lay Appellants. However, he submitted that there must be a proper balancing exercise in place and, in accordance with Barton, party litigants should not be given additional leeway.

The dissenting opinion of Lord Briggs at page 1136 of Barton was quoted as follows:-

"Although a number of the mitigating factors listed above are in a sense characteristics of Mr Barton being a litigant in person, that comes nowhere near saying that being a litigant in person constitutes a free-standing good reason why his botched attempt at service should be validated... ..there cannot fairly be one attitude to compliance with the rules for represented parties and another for litigants in person, still less a general dispensation for the latter from the need to observe them."

Considering the terms of Lord Briggs' judgment, the Fiscal argued that a party litigant should not be given a "long length of string".

The decision of the Inner House of the Court of Session in the case of Mohammed v RBS[2018] CSIH 47 was cited by the Fiscal. In that case, a party litigant sought to lodge a Minute of Amendment when the case was dismissed due to lack of specification. At paragraph 8 of the decision, Lady Paton applies the principles of Barton by stating:-

“As for the involvement of a Mackenzie friend and a party litigant, the UK Supreme Court in their recent decision Barton v Wright Hassall LLP [2018] 1 WLR 1119 (particularly at paragraphs 18 and 42) emphasised that party litigants and their Mackenzie friends must comply with the rules of court and court administration in the same way as any other party: to give party litigants special indulgences would, the Supreme Court observed, render the court system unfair.”

The Fiscal submitted that the case law was clear that the rules of specification and relevance applied to party litigants. In other words, the law still applied to the Appellants in this case who must plead a relevant and specific case.

In relation to potential grounds of appeal, the Fiscal cited Alistair Kenny Smith Hood Petitioner 2017 SCLR 799. In that case, Lord Drummond set out three possible grounds of appeal (known as “the Hood Principles”) as follows:-

“The first is where the tribunal’s or subcommittee’s reasoning discloses an error of law, which may be an error of general law in the application of the law to the facts. The second is where the tribunal or subcommittee has made a finding for which there is no evidence, or which is contradictory of the evidence. The third is where the tribunal or subcommittee has 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 Tribunal or subcommittee could properly reach.”

The Fiscal submitted that, when pursuing an appeal under the Hood principles, Appellants should be specific and plead the following in relation to each ground:-

- Ground 1 – What is the general law? Appellants should point out where the PCSC failed to either apply the law or applied the wrong law in its decision.
- Ground 2 – Appellants should highlight which findings in fact should have been made by the PCSC and clearly link those to the evidence provided.
- Ground 3 – Appellants should identify a fundamental error in the decision making. They must explain, in a reasoned way, why no reasonable PCSC would come to the decision reached.

In relation to relevancy of the Appeal, the Fiscal relied on paragraph 9.33 of Macphail, incorporating quotes from the decisions in JD v Lothian Health Board [2017] CSIH 27 at footnote 116 and R.W. Millar, “Civil Pleading in Scotland” (1932) 30 Mich I.R. 545 at 568, fn. 96 per LP Clyde at footnote 117. The relevant section of Macphail is quoted below:-

“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 [reference to footnote 116 which cites the case of JD].”

In stating a plea to the relevancy the pleader in effect says:

“What the opposite party says may be true, or it may not, but even if it be assumed that it is all true, nevertheless he cannot prevail against me, either because an essential fact is unrepresented in his averments, or because the facts he avers would not, even if proved, justify the application of the legal principle to which he appeals. ‘The plea to the relevancy, in short, avoids, or at least postpones, any joinder of issue on the merits of the case.’ [reference to footnote 117 which cites “Civil Pleading in Scotland”].”

In relation to these proceedings, the Fiscal argued that the Appellants had not pled a relevant case but, even if they had, they would not succeed. The Fiscal’s primary submission was that, looking at each paragraph individually or considering the grounds of appeal as a whole, it was totally unclear which part or parts of the First Respondents’ decision were being attacked by the Appellants. The Fiscal referred to the written submissions in the Note of Argument date 17 March 2026 and confirmed this to be the First Respondents’ primary position. It addressed each of the grounds of appeal as follows:-

“[...]Grounds of Appeal

In the grounds of appeal dated 9 January 2026 nine separate grounds of appeal are relied upon. In the interests of brevity these shall not be repeated but addressed by the Respondent’s in turn.

1. No relevant ground of appeal advanced.
2. No relevant ground of appeal advanced. Although reference is made to two principles of appeal as set out in the case of Hood, Petitioner CSIH 27, there is no specification as to why these principles are satisfied in this particular ground of appeal.
3. This ground of appeal makes assertions as to a lack of consideration by the PCSC and potential ramifications of such action. Again, it does not elaborate how the PCSC acted against the principles established in the case of Hood, Petitioner CSIH 27.
4. No relevant ground of appeal advanced. The Appellants state that a number or practice rules have been

breached. Whether or not a practice rule has been breached is, at this stage of the disciplinary procedure, a matter for the PCSC to allege and not for the Appellants.

5. No relevant ground of appeal advanced. The severity of a Respondent's alleged actions is a matter for the PCSC to consider in light of the available evidence. The Appellants had the opportunity to make representations to the PCSC in advance of consideration of the issues, the minute of the PCSC meeting shows that these representations were made via email in March 2025 and May 2025 and were considered.
6. No relevant ground of appeal advanced. This ground of appeal does not elaborate how the PCSC acted against the principles established in the case of Hood, Petitioner CSIH 27. The ground of appeal states that the decision of the PCSC is contrary to "the evidence" and "should not have been made by a competent committee" but fails to exposit why this is the case.
7. No relevant ground of appeal advanced. The Appellants reference a lack of correspondence and in particular refer to representations made by the Appellants. The minute of the PCSC meeting shows that such representations were fully considered and a finding of unsatisfactory professional conduct was deemed appropriate in addition to the disposal of a censure and £1500.00 compensation.
8. No relevant ground of appeal advanced. The PCSC considered fully the Reporter's recommendation and referenced the inhibition the Appellant's refer to in this ground of appeal.
9. No relevant ground of appeal advanced. An assessment as to whether or not rule breaches have occurred is at the stage of the PCSC decision a matter for the PCSC alone."

SUBMISSIONS BY THE APPELLANTS

The Tribunal invited the Appellants to make their submissions. The Chair explained that this was an opportunity for the Appellants to explain where they considered the First Respondents had made an error; in particular where the First Respondents had (i) ignored relevant facts (ii) not taken relevant evidence into account or (iii) made an unreasonable decision. The Chair was clear that the Appellants could take as long as required to make their submissions.

The Appellants opposed the remaining Preliminary Pleas and asked the Tribunal to refuse those. The grounds of appeal submitted in writing by the Appellants were as follows:-

"Issue 1 – Law Society failure to making a finding of Unsatisfactory Professional Conduct against NBR. Law society of award Compensation in the event of NBR being found guilty of UPC.

Issue 2 – Law Society failure to award sufficient level of Compensation in terms of the serious level of misconduct over an extended period of time.

2.The LSS made a finding which is contradictory to the evidence. The LSS arrived at a decision no reasonable sub committee (PCSC) would reach.

3.The PCSC decision does not reflect the seriousness of NBR misconduct, sets a poor precedent which will not protect the public in the future, nor protect the reputation of the legal profession nor uphold professional standards and will not therefore act as a deterrent.

4.NBR was in breach of the following Rules; B1.9 Effective Communication, B1.10 Competence and Diligence, B1.2 Trust and Integrity, B1.4 Interest of the client.

5.NBR misconduct was at the serious end of the scale and this is not reflected in LSS decisions and awards. Based on the overall facts and evidence provided to PCSC we have proved NBR acted over an extended period of time in an egregious manner without competence and integrity and the award for Issue 1 to be upgraded to UPC and the level of compensation reviewed in respect of Issue 2.

This is a man who despite overwhelming evidence of impropriety continued to practice law with impunity and retired in April 2024 with his reputation intact yet caused us untold distress entirely due to his lack of competence and diligence. To the best of our knowledge, he has never been reprimanded, sanctioned, or been directed to be supervised or retrained which is bewildering – this is primarily due to the permissive culture with [firm] which has been expounded upon multiple times to both the SLCC and LSS.

The nonregistration of a house valued in excess of £350K has serious ramifications and implications eg inability to sell. To compound matters, NBR between 2020-2024 made no attempt to rectify matters despite his fees being paid in advance, retaining the file and holding monies to pay for LBTT. As of todays date, we do not have registered title to this house to which we have invested our life savings which is why we are submitting this appeal and we are fully compensated. Due to NBR's negligence, we estimate our potential liability in additional legal costs and penalty LBTT to Customs and Excise between the 26th April 2018 and today will be in the order of £10,000 for which NBR should be liable.

6. We have examined the Outcomes Guidance and Compensation Tariffs issued by SSDT. It is evidence from these guidelines that due to NBR excretable behavior/conduct between April 2018 (date of Purchase of house) and 20th March 202 (Date of Stage 1 Complaint) the decision of the PCSC is contrary to these guidelines and secondly, contrary to the evidence and should not have been made by a competent committee adjudicating the facts:

NBR has never personally admitted his guilt or apologised. Mr W [parter in firm] was the person to have offered some degree of qualified apology.

NBR has never attempted to rectify the non registration of title (see 5 above)

All the evidence points to a wilful and meditated personalized campaign again'st us.

This should be regarded as aggravated case, as NBR was formerly a friend of ourselves. NBR violated our goodwill and forbearance during this period.

Although not wholly pertinent, we would like to highlight, NBR was found guilty for a similar indictment in 2004/5.ie non registration of title.

This appeal has caused us both a high level of stress and anxiety (see Addendum 6, Victim Impact Statement) over a 6 year period.

NBR has not been open and transparent with us. Eg he still to this day has not disclosed his communication with the Sellers agents.

NBR acted with mendacity and dishonesty between 2018-2020, he continuously lied to us with broken promises, false assurances etc.

This appeal is now in its 6th year. We have invested in excess of 350 hours which has caused a great deal of disruption to our lives. The level of Compensation should reflect this fact.

From what we can discern, NBR has been intransigent in his dealings with SLCC And LSS with limited cooperation. He has provided limited evidence in his defence.

All these facts have been expressed to SLCC & LSS on multiple occasions. Without fear of contradiction, this is not a minor infraction which has had a minimal impact on ourselves, and this should have been reflected on the penalties imposed on NBR.

We are of the opinion, PCSC has not fully considered all these facts and if it had done so would have arrived at a different decision.

7.The facts are to a lesser or greater extent indisputable. Our Stage 2 submission (happy to provide copy) is a comprehensive, accurate and chronological account of events between 2018-20 and lists all correspondence between the parties. Despite numerous correspondence, meetings, pleadings there was almost complete inertia from NBR resulting in his failure to action and discharge the registration of title over 675 days. There were inexplicable undue delays in responding/actioning instructions and/or correspondence and the constant hassle of having to pursue him.

8.During May 2028 were raised with NBR the question of whether an Inhibition applied to our purchase, NBR opined it was enforceable for 5 years. From our subsequent investigations, it only applies to sellers and does not apply to purchasers who subsequently purchase a property after the date of an Inhibition being granted. The PCSC did not reference this in their decision and therefore tarnished

9.It is our assertion that NBR conduct/behaviour between 2018/2020 and his unyielding attitude thereafter, constitutes a material breach of LSS rules which has had a profound affect on ourselves. Therefore we have a prima facie case for this appeal to be upheld in terms of Section 42Z.

Our investigations have indicated that several solicitors have been fined and given an UPC for much less serious misdemeanours than NBR.

Finally, we never in our 65+ lives encountered a person whose professional standards are so abysmal with inherent atrophy which has such significant consequences to so many people, organization's over the past 6 years including SSDT."

The Appellants also made some oral submissions. The First Appellant began by stating that they had been given notice of only one working day in relation to the legal authorities lodged by the Fiscal. The document extended to 146 pages and the First Appellant said it was extremely difficult for him to understand how those cases applied to this appeal as they involved different facts and were, in his submission, not directly comparable.

The First Appellant said he understood the Tribunal to be informal and repeated that neither he nor the Second Appellant were legally qualified. He stated that they had received “no help or guidance” from any other parties in relation to submitting this appeal.

The First Appellant said that he could provide lots of other documentation regarding the history of the matter but had understood that the appeal must be succinct.

In relation to the Hood Principles, the First Appellant submitted that he had made many representations to the First Respondents that their decisions were “erroneous and biased”. He said that no questions were asked of the Second Respondent who simply denied that he was culpable.

The Second Appellant submitted that the files before the First Respondents were “incomplete”. The First Appellant complained that the onus appeared to be on the Appellants to prove their case. The First Appellant stated that the appeal had not been made on the basis of there being an error of law as he and the Second Appellant were “not capable of doing that”.

The First Appellant then turned to the grounds of appeal and referred to some of them. He stated that, in relation to numbered paragraph 1 of the Appeal, it “beggars belief” that no finding was made against the Second Respondent.

A member of the Tribunal noted the suggestion in the documents produced that the First Appellant had instructed the Second Respondent not to register the title in his name; that the title should, instead, be registered in the name of the Second Appellant. The papers before the Tribunal showed that the Second Respondent had obtained advice from a senior conveyancer in relation to this issue. The Tribunal noted paragraph 4.6.23 of the Reporter’s Recommendation dated 14 February 2026 which stated:-

“On 21 May 2020 the firm were provided with an opinion by another solicitor who advised that the property was caught by the Inhibition and that the complainer could not insist upon a fresh disposition being executed and delivered. He also warned that a dangerous course was being taken by complainer X in not allowing the delivered Disposition to be registered.”

The First Appellant responded by saying that he was not aware of the involvement of a “senior conveyancer”. He submitted that the Second Respondent had taken 675 days to respond to him and commented that this was “completely wrong”.

The First Appellant said that the Second Respondent was instructed to register his title to the property. After 93 days and “numerous emails” the First Appellant said that he received a phone call from the Second Respondent. The First Appellant said that this information was before the First Respondents during the decision making process.

In relation to paragraph 2 of the appeal, the First Appellant submitted that he had “reams of evidence” and said that their submission to the First Respondents had extended to 2000 words. The Second Appellant said that the Second Respondent was paid to do a job which was never completed. She added that the firm which the Second Respondent worked for at the time of the transaction had since been “absorbed” by another firm which had retained the money due by the Appellants for the “tax element” of the conveyancing transaction. The Appellants accepted that these matters were not part of the appeal.

In relation to paragraph 4 of the appeal, the Appellants reiterated their view that there had been a serious breach of rules by the Second Respondent. They expressed their grievance that the Second Respondent had not, in their opinion, been reprimanded firmly enough by his firm and that he had continued to practise until 2024. The Appellants felt that the Second Respondent suffered no consequences as a result of his alleged actions.

The Chair of the Tribunal acknowledged that the Appellants were feeling frustrated with these matters. However, the manner in which the firm had dealt with the Second Respondent was irrelevant in terms of criticising the decision of the First Respondents and, therefore, in relation to this appeal.

The First Appellant submitted that the effect upon himself and the Second Appellant was relevant. He said they had both suffered stress and referred again to papers before the Tribunal in that regard. He said they had spent 6 years pursuing the Second Respondent and considered that he remained “unscathed with his reputation in tact”. The Appellants had received no apology from the Second Respondent and said they had given him “every chance” to rectify matters over a period of two years.

Meanwhile, the Appellants’ house remained unregistered which had implications for them, including liability for late payment of stamp duty in the sum of around £10,000. The Appellants maintained that the First Respondents had been too lenient in relation to the Second Respondent.

The First Appellant stated that the Reporter had recommended that the Second Respondent be prosecuted for professional misconduct and the Appellants were aggrieved that said course of action had not been pursued. The First Appellant said he found it “absolutely staggering” that part of their complaint about the Second Respondent had not been upheld by the First Respondents.

The First Appellant said he was aware that other solicitors had been fined and sanctioned more severely than the Second Respondent for “lesser issues”. He referred again to the final paragraph in the written appeal, quoted above. The First Appellant said that the effects of this matter on him and the Second Appellant were “profound” and stated again that they had received no help. They wanted to ensure that their voices were heard.

The Second Appellant was asked if she would like to make any other comments. She stated that she had nothing further to add to the points already specified.

Submissions were concluded.

ADDITIONAL SUBMISSIONS

The Tribunal had no questions for the parties. The Fiscal was given an opportunity to respond to the Appellant’s oral submissions.

The First Appellant interjected and asked the Tribunal if they had considered his email of 7 April 2026. The Tribunal confirmed the email was before it for consideration. The First Appellant referred to the terms of that email, saying that it summarised their position, and invited the Tribunal to dismiss the First Respondents’ Preliminary Pleas.

The First Appellant asked why the First Respondents were placing an “impediment” or “procedural blockage” in their way. The First Appellant said he believed that the First Respondents wanted them to “go away”. He said that, according to the Law Society of Scotland, solicitors must act appropriately or face severe sanctions. He referred to the Consumer Credit Act (date not specified) and submitted that it also applied to the services of solicitors. He described the Second Respondent as a “scurrilous man”.

In response, the Fiscal submitted that the Appellants were asking the Tribunal to rehear the entire case but that was not the purpose of the appeal process. The Fiscal said that the Appellants had made no attempt to articulate grounds of appeal in terms of the Hood Principles.

The Fiscal took issue with the assertion that the First Respondents’ position was a “procedural blockage”. He explained that the First Respondents were entitled to raise the Preliminary Pleas in relation to the appeal and had given the Appellants fair notice of the arguments being made.

In addition, the Fiscal said it was very important to note that the First Respondents were not representing the Second Respondent. They were defending the suggestion that the decision of the PCSC was incorrect.

The Fiscal pointed out that, contrary to what the First Appellant had said, the Reporter did not recommend that the Second Respondent be prosecuted for professional misconduct. In fact, the Reporter recommended no further action in relation to that issue. However, the PCSC decided not to follow that recommendation. The Fiscal added that the Second Respondent did acknowledge and concede his actions in relation to issue 2 of the original complaint.

The First Appellant reiterated his dissatisfaction that the Second Respondent had not issued an apology to the Appellants directly. He stated that the Fiscal was incorrect; that the Reporter had recommended prosecution of the Second Respondent. However, the Appellants were of the view that the PCSC decision had “lowered the tariff” and imposed a “minor reprimand” upon the Second Respondent.

The Tribunal noted the terms of the Reporter’s Recommendation dated 14 February 2026 (No. 1 of the Inventory of Productions for the First Respondent). The First Appellant said that he did not have the production in front of him. To assist parties, the Clerk of the Tribunal was asked to read out the conclusions of the Reporter which confirmed that no action was recommended in relation to the Complaint. The Clerk shared her screen with parties to ensure that everyone could see the information that was before the Tribunal. Given the insistence of the First Appellant that the Reporter had recommended prosecution of the Second Respondent, the Chair asked the Appellants if they had different information before them. The First Appellant conceded that the Reporter’s Recommendation dated 14 February 2025 was correct and that his recollection was incorrect. The Tribunal noted that the written submissions on behalf of the First Respondent dated 17 March 2026 mistakenly referenced a recommendation by the Reporter to prosecute issue 2 of the original Complaint. However, that was not what the Reporter’s Recommendation dated 14 February 2025 stated. The Tribunal took parties to the wording in the recommendation to clarify the position. The Tribunal concluded that the Appellants may have adopted that mistaken view and that may have explained the First Respondent’s insistence that prosecution had been recommended

The First Appellant took issue with the Fiscal’s suggestion that he had simply “regurgitated” matters. The First Appellant maintained that he and the Second Appellant believed that the First Respondents’ decision was wrong.

DECISION

The Tribunal gave careful consideration to all submissions and information presented to it. It took into account everything said by the parties during the Preliminary Hearing. The Tribunal recognised that the Appellants were party litigants. Every effort had been made to assist their understanding of these proceedings with a view to ensuring fair, effective and open justice. The Tribunal is an independent judicial body and

cannot advise Appellants on the merits of their appeal. This was made clear to the Appellants during the appeal process. It was open to them to seek independent advice. The Appellants were dissatisfied with the overall system for complaining about solicitors in Scotland. However, the Tribunal has no discretion over that. The remit of the regulatory bodies for legal services in Scotland is set out in statute. The legislation prescribes the powers and role of the Tribunal and it cannot divert from those.

This hearing was fixed for the Tribunal to consider the Preliminary Pleas advanced by the First Respondents in relation to the appeal. At this point in proceedings, the Tribunal could not consider the merits of the appeal. The applicable provisions relating to the substantive matters at issue were Rules 50(1) and 50(5) of the 2024 Rules which state:

“50(1) The Tribunal may direct that any question of fact or law which appears to be an issue may be decided at a preliminary hearing.

50(5) 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 bore in mind some general principles when considering the Preliminary Pleas and carefully considered whether anything in the Appeal, on a fair construction, ought to be permitted to proceed to a Hearing on the merits.

The Tribunal noted paragraph 9.14 of Macphail:

“The principal rules of pleading are these. (1) Pleadings must state facts only, and not evidence or, in general, law. (2) Every statement of fact made by one party must be answered by the other party. An understanding of this rule requires a consideration of the law and practice as to implied admissions and the making of admissions. (3) The pleadings must be specific. (4) The pleadings must be relevant. Aside from these four specific rules, as a generality, it is desirable that the pleadings should also be concise.”

The Tribunal had to consider whether the Appeal lacked specification to such an extent that it was irrelevant. The legal position on specification of pleadings is set out at paragraph 9.28 of Macphail:-

“ 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... ..”

The case of JD was cited by the Fiscal in support of the First Respondent's position. It sets out the legal position in relation to relevancy as follows:

"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 questions 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 Appellants had repeatedly expressed significant frustration regarding their interactions with the Second Respondent during the appeal process. They clearly disagreed with the decision of the First Respondents. However, the parameters of the Tribunal's remit were limited and specific. It could not rehear the original complaint of the Appellants. The Tribunal could only consider the terms of the First Respondents' decision in light of the clear principles set out in Hood. That case is clear that a Court should be slow to interfere with the PCSC's decision unless one of the principles applies.

Given that the Appellants disagreed with the decision made by the First Respondents, the onus lay on them to explain which of the Hood principles applied to their appeal and to clearly lay out, before the Tribunal, which specific parts of the First Respondents' decision were at issue and why. The First Respondents had challenged the appeal by saying that, as the Appellants had not done this, the grounds of appeal were unclear and therefore, the appeal should not be allowed to progress any further.

The Tribunal was clear that the First Respondents were entitled to defend any criticism of their decision levied by the Appellants. It was vital that any appeal lodged with the Tribunal was clearly stated to allow it to assess the arguments being made. It was not the Tribunal's task to work out what arguments the Appellants were trying to make. It was very important that the Appellants made their case clearly, raising relevant and specific points for consideration and linking those to the decision appealed against. The Appellants had referred to the Law Society of Scotland Practice Rules 2011 but not the actual findings of the First Respondents which they said were relevant to alleged breaches.

The written and oral submissions of the Appellants were mainly expressions of overall dissatisfaction with both Respondents. They expressed general opinions about the Second Respondent which were irrelevant to the decision of the First Respondents. They also made comments about alleged conduct which had occurred before and after the dates detailed in the complaint which the First Respondents had to determine. Throughout the process, the Tribunal acknowledged that the Appellants were party litigants. In accordance with its rules, the Tribunal had invited parties to make written submissions in advance which allowed additional time for the Appellants to consider and research any points they did not understand. It also provided time for the Appellants to seek legal advice if required.

The Appellants referred to delayed responses from the Second Respondent. However, the information before the Tribunal showed that the Second Respondent had acknowledged those and this information was considered by the First Respondents when making their decision.

In relation to the Hood principles, the Tribunal noted the following points:-

1. The grounds of appeal claimed that the PCSC did not take all information into account when making its decision. However, the Appellants failed to specify the particular information which they said should have been considered.
2. The grounds of appeal claimed that the PCSC erred in law but failed to specify or highlight particular errors in the PCSC decision. Nor did the grounds of appeal specify the way in which the PCSC had made a mistake in applying the law to the facts.

The grounds of appeal claimed that the PCSC made a decision which no reasonable subcommittee would reach. However, they did not specify the basis on which the Appellants were making that assertion. The Tribunal concluded that the grounds of appeal were very unclear. It cannot be sufficient for Appellants to simply refer to the Hood principles in general without substantiating their claims and relating grounds of appeal to the particular information and pieces of evidence. The Tribunal upheld the First Respondent's Preliminary Pleas.

In terms of Rule 50(5), the Tribunal was entitled to treat the Preliminary Hearing as a hearing of the case and give such direction as it considered appropriate to dispose of the case. In the circumstances, the Tribunal granted the accompanying motion to dismiss the Appeal.

The Fiscal moved for an order of expenses against the Appellants on the basis that the First Respondent's arguments had been successful, the Preliminary Pleas had been upheld and the Appeal dismissed. He submitted that the profession ought not to bear the expenses of an Appeal which was dismissed for lack of relevance and specification.

The Appellants opposed the motion for expenses. The Appellants said their understanding was that no order for expenses would be granted if the matter did not progress to a full Hearing. They made no other submissions in relation to expenses.

The Tribunal took account of its discretion to award expenses in relation to Appeals in terms of Paragraphs 19 and 23 of the Schedule 4 of the Solicitors (Scotland) Act 1980 and also the terms of Rule 25(1) of the 2024 Rules. It was entitled to treat the matter as a hearing and had made a decision disposing of the Appeal.

The Tribunal considered the specific circumstances of this case and made an award of expenses against the Appellants on the basis that the First Respondent had been successful.

The Tribunal ordered publicity of the decision in terms of Paragraph 14 and 14A, Schedule 4 of the 1980 Act.



Beverley Atkinson
Chair