



## THE FACULTY OF ADVOCATES

### Complaints Process Practice and Procedure Document

*This document is not part of the Disciplinary Rules. It is intended to provide a simple outline of the practice and procedure that will be followed in handling a complaint*

## A practical guide for complaining parties (“complainers”) and counsel

### Purpose

The Faculty operates a process for complaints handling, to meet its statutory regulatory obligations. The process is intended to be efficient, flexible, proportionate and with a view to promoting excellence within the profession.

#### LEGAL PROVISIONS

- THE LEGAL SERVICES (SCOTLAND) ACT 2010
- THE LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2007

- The Faculty can only look at the complaint that the SLCC has sent to us.

### Communication

- The administration of a complaint will usually be done electronically using email.
- The Faculty will keep you updated on the progress of the complaint.
- Documents relevant to a conduct complaint will be cross-copied between the complainer and counsel unless there is good reason not to do so. A claim that documents are confidential or where there is insufficient time might be a reason not to cross-copy documents.

### What we can do

- Complaints should be raised with counsel in the first instance to allow an opportunity for informal resolution.
- If not resolved informally, all complaints against legal professionals in Scotland are passed to and considered by the Scottish Legal Complaints Commission (SLCC).
- The SLCC will send eligible conduct complaints against Advocates to the Faculty for investigation and determination.

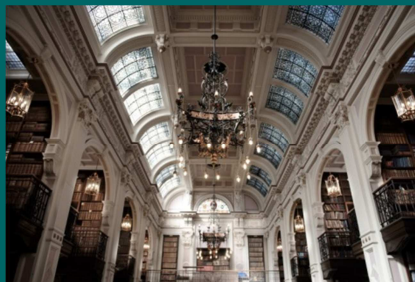
### The Role of the Complainer

- A complaint must be proved beyond reasonable doubt. It is important that the complainer provides the SLCC and the Faculty with full information regarding the complaint at the outset.
- The Faculty may ask the complainer and/or counsel for further comments or information.

- In some cases an investigating committee may be appointed, and the role of the complainer may be as a witness.
- In some serious cases, or on appeal a complaint may be remitted to the Disciplinary Tribunal, and the complainer's role will be as a witness.

## Complaints Committee Meetings

- Normally, meetings of the Complaints Committee will take place in private. Neither the complainer or counsel will be present.
- Normally, representations to the Complaints Committee shall be made in writing.
- All papers provided to the Faculty from the complainer, and from counsel shall be provided to all members of the Complaints Committee for their consideration before they meet.



## Penalties

- If a complaint is upheld as Professional Misconduct or Unsatisfactory Professional Conduct and a penalty is to be imposed, the complainer will be asked to comment on the consequences of counsel's conduct for the complainer.
- Thereafter, counsel will be given an opportunity to comment before any penalty is imposed.

## After the decision

- If the complainer is dissatisfied with the Complaints Committee's decision, it may be possible to appeal.
- The permission of the Complaints Committee is required before any appeal can proceed, Permission will only be given where it can be shown an appeal has a real prospect of success or there is another compelling reason to do so.

- If you are dissatisfied with Faculty's handling of the complaint you may wish to raise that with the SLCC

## Determination of complaints

- The Complaints Committee will consider the complaint and decide whether Professional Misconduct or Unsatisfactory Professional Conduct has been proved. If this has not been proved the complaint will be dismissed.
- The Complaints Committee will issue its decision in writing and will provide reasons for its decision.
- The complaint may be remitted to the Disciplinary Tribunal if it is appropriate to do so. That may be because it is serious or if an appeal is made.

## Contact Details

- If you require assistance or further explanation of any part of the Faculty's complaints process, please contact: [complaints@advocates.org.uk](mailto:complaints@advocates.org.uk)
- The SLCC's contact details can be accessed here –

<https://www.scottishlegalcomplaints.org.uk/>