



FACULTY OF ADVOCATES

DISCIPLINARY RULES

2026

In accordance with section 121 of the Legal Services (Scotland) Act 2010, these Rules were approved by the Lord President of the Court of Session and published by the Faculty of Advocates on [XX/XX/2025].

CONTENTS

Rule

Application and interpretation of these rules

- 1 Application and citation
- 2 Meaning of key terms
- 3 Sending and receipt of information and documents
- 4 Format of hearings

General rules on conduct complaints

- 5 Standard of proof
- 6 Legal representation and lay support
- 7 Confidentiality and privilege
- 8 Delegation of complaints handling
- 9 Withdrawal of a complaint
- 10 Complaint appearing to be service complaint
- 11 Discontinuing or reinstating investigation of complaint
- 12 General powers and duties of Complaints Committee and Disciplinary Tribunal
- 13 Guidelines on penalties

First steps in investigation of complaint

- 14 First steps in investigation: Complaints Officer and Presenting Officer

Interim suspension of the Member

- 15 Interim suspension of the Member
- 16 Application for review of an interim suspension by the Dean
- 17 Duty on the Dean to review an interim suspension periodically
- 18 Appeal of an interim suspension to the Disciplinary Tribunal
- 19 End of an interim suspension on final disposal of a conduct complaint

Referral to the Complaints Committee for decision

- 20 Complaints Committee procedure: general provisions

21 Complaints Committee: preliminary hearing and case management

22 Complaints Committee: determination hearing

Complaints Committee penalties

23 Complaints Committee: penalty hearing

24 Penalties available to the Complaints Committee

25 Power of the Dean to refer penalty to the Disciplinary Tribunal

Appeal to the Disciplinary Tribunal

26 Permission to appeal the Complaints Committee's decision

27 Disciplinary Tribunal appeal procedure: general provisions

28 Disciplinary Tribunal: preliminary hearing on appeal and case management

29 Disciplinary Tribunal: appeal hearing

Referral to the Disciplinary Tribunal for decision

30 Disciplinary Tribunal decision procedure: general provisions

31 Disciplinary Tribunal: preliminary hearing and case management

32 Disciplinary Tribunal: determination hearing

Disciplinary Tribunal penalties

33 Disciplinary Tribunal: penalty hearing

34 Penalties available to the Disciplinary Tribunal

Membership of the Complaints Committee and the Disciplinary Tribunal

35 Membership of the Complaints Committee

36 Membership of the Disciplinary Tribunal

Petition for removal of the Member

37 Petition for removal of the Member from the public office of advocate

Publication of decisions on conduct complaints

38 General rules on publication of decisions

39 Time periods for publication of decisions

Application and interpretation of these rules

1 Application and citation

- (1) These rules apply to a conduct complaint remitted to the Faculty of Advocates by the Scottish Legal Complaints Commission on or after [XX/XX/2026] in respect of an advocate, whether or not—
 - (a) the advocate was practising at the time of the events giving rise to the conduct complaint, or
 - (b) the advocate’s membership of the Faculty of Advocates has ended or has been suspended since that time.
- (2) Where, in the course of exercising its regulatory functions, the Faculty identifies a matter of concern regarding the conduct of a Member and is satisfied that the matter would be considered by the Commission to be an eligible conduct complaint under the Legal Profession and Legal Aid (Scotland) Act 2007—
 - (a) the Faculty may treat the matter as if it were a conduct complaint remitted to it by the Commission,
 - (b) the Dean’s Secretariat must, as soon as reasonably practicable, send all the information in relation to the matter which is in the Faculty’s possession to the Commission, and
 - (c) unless the context otherwise requires, these rules then apply to that matter in the same way as they apply to a conduct complaint remitted to the Faculty by the Commission.
- (3) These rules do not apply to a conduct complaint whose final disposal is still pending on [XX/XX/2026] if the complaint was remitted to the Faculty by the Commission before that date.
- (4) Where there are multiple complaints relating to the same or substantially the same conduct by a Member, regardless of how the complaints arise, the Faculty may consider the complaints together.
- (5) These rules may be cited as the Faculty of Advocates Disciplinary Rules 2026.

2 Meaning of key terms

In these rules—

“advocate” means a member of the Faculty,

“Clerk to the Committee” and “Clerk to the Tribunal” mean—

- (a) the Clerk of Faculty, or

(b) another advocate appointed by the Dean to act in place of the Clerk of Faculty,

“Commission” means the Scottish Legal Complaints Commission,

“Complainer” means the person making a conduct complaint (which, where rule 1(2) applies, and unless the context requires otherwise, includes the Faculty itself),

“Complaints Committee” means the committee appointed under rule 35,

“Complaints Officer” means the person appointed by the Faculty under rule 14(1),

“conduct complaint” means a complaint of professional misconduct or of unsatisfactory professional conduct within the meaning of section 46 of the Legal Profession and Legal Aid (Scotland) Act 2007 and, unless the context otherwise requires, includes a matter of concern treated by the Faculty as a conduct complaint in terms of rule 1(2),

“day” means working day,

“Dean” means the Dean of Faculty,

“Dean’s Secretariat” means the administrative department of the Faculty which provides support to the Dean and the other Faculty office-bearers,

“Disciplinary Tribunal” means the tribunal appointed under rule 36,

“Faculty” means the Faculty of Advocates,

“Faculty office-bearer” means—

(a) the Dean,

(b) the Vice-Dean of Faculty,

(c) the Treasurer of Faculty,

(d) the Clerk of Faculty,

(e) the Deputy Clerk of Faculty,

(f) the Keeper of the Library,

(g) the Chair of Faculty Services Limited (registered number SC048261),

(h) the bearer of any other office created by the Faculty with an equivalent status to the offices listed in paragraphs (a) to (g), and

where a Faculty office is held jointly by more than one person, includes each person who holds that office,

“final disposal” of a conduct complaint occurs—

- (a) when the complaint is withdrawn by the Complainer under rule 9(1) and is not the subject of a direction under rule 9(2),
- (b) if a decision on the complaint is made by the Complaints Committee—
 - (i) when the time period for seeking permission to appeal under rule 26(2) has ended without an application for permission having been made,
 - (ii) when permission to appeal is refused under rule 26(8), or
 - (iii) if permission to appeal is given under rule 26(7) but is later withdrawn or not pursued, when the time period for lodging written arguments on appeal under rule 28(3) has ended without such arguments having been lodged, or
- (c) if a decision on the complaint is made by the Disciplinary Tribunal (on referral by the Complaints Committee or on appeal)—
 - (i) if the complaint is not upheld, when the Tribunal informs the parties of that decision under rule 32(4),
 - (ii) if the complaint is upheld, when the Tribunal informs the parties of its decision on the penalty under rule 33(7),

“handling complaint” means a complaint which relates to the manner in which a conduct complaint has been dealt with by the Faculty,

“inadequate professional services” means professional services which are in any respect not of the quality which could reasonably be expected of a competent advocate,

“interim suspension” means suspension of a Member from practice on an interim basis under rule 15(1) or (2),

“junior advocate” means an advocate who has not been appointed as one of His Majesty’s Counsel,

“lay person” means a person who—

- (a) is resident in Scotland,
- (b) is not a solicitor or advocate practising in Scotland, and
- (c) has never held any judicial office,

“lay support” means unpaid support from a lay person in the conduct of a case, but does not include representation,

“legal representation” means representation by a solicitor or an advocate,

“Member” means the advocate against whom a conduct complaint is made,

“Presenting Officer” means the person instructed by the Dean to present a complaint to the Complaints Committee or the Disciplinary Tribunal,

“professional misconduct” means conduct that—

(a) is a departure from the standards of competent and reputable advocates,
and

(b) would be regarded by such advocates as serious and reprehensible,

“regulatory functions” includes, but is not limited to, the functions set out in section 6 of the Regulation of Legal Services (Scotland) Act 2025,

“senior advocate” means an advocate who has been appointed as one of His Majesty’s Counsel,

“services complaint” means a complaint suggesting that professional services provided by an advocate were inadequate,

“special committee” means the committee of the Disciplinary Tribunal appointed under rule 26(5),

“unsatisfactory professional conduct” means conduct that—

(a) is not of the standard that could reasonably be expected of a competent and reputable advocate, but

(b) does not amount to professional misconduct, and

(c) does not comprise merely inadequate professional services.

3 Sending and receipt of information and documents

(1) Where, under any of these rules, a person is to be informed of something, the person must be informed in writing—

(a) by email, or

(b) by letter using a postal service which provides for delivery of the letter to be tracked or recorded.

(2) A person is taken to have been informed of something by email on the date on which the email is sent.

(3) Where an email is sent after 5pm, a person is taken to have been informed of its contents on the day after the date on which the email is sent.

(4) A person is taken to have been informed of something by letter on the day after the date on which the letter is sent.

- (5) Where, under any of these rules (except rule 26(2) on an application for permission to appeal), a person provides any kind of document to the Dean, the Complaints Officer, the Complaints Committee or the Disciplinary Tribunal, the person must send a copy to the other parties to the complaint.

4 Format of hearings

A hearing under these rules may be conducted—

- (a) in person,
- (b) using remote video facilities, or
- (c) partly in person and partly using remote video facilities.

General rules on conduct complaints

5 Standard of proof

The standard of proof in conduct complaints is to be the balance of probabilities.

6 Legal representation and lay support

At all stages of these rules, the Complainer and the Member have the right—

- (a) to legal representation,
- (b) to lay support, or
- (c) to conduct their own case.

7 Confidentiality and privilege

- (1) A Complainer waives any right to confidentiality in respect of the events giving rise to their conduct complaint.
- (2) A Member may rely on and disclose any information or documents that the Member considers necessary to answer a conduct complaint against them.
- (3) Where the Complainer is not the instructing client or the person exercising rights of direct access in respect of the Member—
 - (a) paragraph (1) does not apply, and
 - (b) the existing rules concerning legal professional privilege apply instead.

8 Delegation of complaints handling

- (1) The Dean may appoint another Faculty office-bearer to—
 - (a) handle a particular conduct complaint,
 - (b) handle conduct complaints generally, or
 - (c) take particular decisions either in relation to a particular conduct complaint or in relation to conduct complaints generally.
- (2) Where a conduct complaint is made by or about the Dean, the Vice-Dean must appoint another Faculty office-bearer (which may be the Vice-Dean) to handle the complaint in the Dean's place.
- (3) In a case where either—
 - (a) a conduct complaint is made by each of the Faculty office-bearers in relation to the same or substantially the same conduct, or
 - (b) a conduct complaint is made by one of more of the Faculty office-bearers and every other Faculty officer-bearer has a conflict of interest in relation to the complaint,the Dean must appoint a senior advocate to handle the complaint.
- (4) A Faculty office-bearer appointed to handle a conduct complaint under paragraph (1) or (2), and a senior advocate appointed under paragraph (3), has all the powers of the Dean under these rules in respect of the complaint.
- (5) The Dean may delegate matters relating to the administration of a particular conduct complaint, or of conduct complaints generally, to—
 - (a) the Dean's Secretariat, or
 - (b) another person or body.

9 Withdrawal of a complaint

- (1) A Complainer may withdraw a conduct complaint by informing the Dean at any time before the final disposal of the complaint.
- (2) The Dean may direct that a conduct complaint is to continue to be handled under these rules, despite the withdrawal of the complaint by the Complainer, if the Dean considers the complaint to be sufficiently serious to do so.
- (3) In considering whether a conduct complaint is sufficiently serious to give a direction under paragraph (2), the Dean must have regard to—

- (a) the extent to which the complaint alleges a breach of any of the professional principles set out in section 4 of the Regulation of Legal Services (Scotland) Act 2025, and
 - (b) any other matters the Dean considers relevant.
- (4) Where the Dean intends to make a direction under paragraph (2), the Dean must—
 - (a) inform the Complainer and the Member,
 - (b) hold a hearing on the matter,
 - (c) at least 7 days before the hearing, inform the Complainer and the Member of the date, time and place of the hearing, and
 - (d) give the opportunity to the Complainer and the Member to present written and oral arguments on whether the conduct complaint should continue to be handled under these rules.

10 Complaint appearing to be service complaint

Where at any stage in the consideration of a complaint under these rules, the Complaints Committee or the Disciplinary Tribunal considers that it is reasonably likely that a conduct complaint may instead constitute a services complaint, it must—

- (a) suspend its investigation of the complaint,
- (b) consult, co-operate and liaise with the Commission as respects the matter,
- (c) send the complaint and any material which relates to it and which is in the Faculty's possession to the Commission, and
- (d) inform the Complainer and the Member that it considers the complaint (or an element of it) to be a services complaint and that it is sending the complaint to the Commission.

11 Discontinuing or reinstating investigation of complaint

- (1) Where at any stage in the consideration of a complaint under these rules, the Complaints Committee or the Disciplinary Tribunal may, if it considers it to be in the public interest—
 - (a) discontinue its investigation of a conduct complaint, or
 - (b) reinstate its investigation of a discontinued conduct complaint.

- (2) As soon as practicable after making a decision under paragraph (1), the Committee or the Tribunal (as the case may be) must inform the Complainer, the Member and the Commission of—
 - (a) the decision,
 - (b) the reasons for the decision.
- (3) In addition, the Committee or the Tribunal (as the case may be) must inform the Complainer and the Member of their ability to make a handling complaint to the Commission.

12 General powers and duties of Complaints Committee and Disciplinary Tribunal

- (1) The Complaints Committee or Disciplinary Tribunal may, on cause shown, disapply or vary any of the requirements of these rules imposed on the Complainer and the Member relating to—
 - (a) the giving of notice,
 - (b) the particular information or documents which require to be notified, or
 - (c) the time periods within which particular actions require to be done.
- (2) The Complaints Committee or the Disciplinary Tribunal may give the opportunity to the Complainer and the Member to present written and oral arguments at any stage in the consideration of a complaint under these rules, as the Committee or the Tribunal (as the case may be) considers appropriate.
- (3) The Complaints Committee or the Disciplinary Tribunal may decide any incidental question of law arising in the course of the determination of a complaint, and the special committee or Disciplinary Tribunal may decide any such question arising in respect of an appeal or an application for permission to appeal.
- (4) All hearings before the Complaints Committee or the Disciplinary Tribunal must be held in public unless the Complaints Committee or the Disciplinary Tribunal (as the case may be) considers—
 - (a) on its own motion, or
 - (b) on the application of the Complainer, the Member, the Presenting Officer, or the Dean (so far as appearing or being represented),that it would be appropriate for a hearing to be held in private.
- (5) Where any new issues about the conduct of an advocate are identified at any stage in the consideration of a complaint under these rules, the Complaints Committee or the

Disciplinary Tribunal must inform the Dean's Secretariat of those issues (which must then notify them to the Commission).

- (6) When determining a conduct complaint (under rule 21, 22, 28, 29, 31 or 32), or imposing a penalty on a Member (under rule 22, 23, 29, 32 or 33), the Complaints Committee and the Disciplinary Tribunal must have regard to—
- (a) the professional principles set out in section 4 of the Regulation of Legal Services (Scotland) Act 2025, and
 - (b) any decision taken by the Commission in respect of a services complaint against the Member where the services complaint arises from the same matter as that to which the conduct complaint relates.

13 Guidelines on penalties

- (1) The Faculty may prepare and publish guidelines on the appropriate penalties to be imposed on a Member under these rules where a conduct complaint is upheld.
- (2) The Complaints Committee or Disciplinary Tribunal must have regard to any guidelines published under paragraph (1).

First steps in investigation of complaint

14 First steps in investigation: Complaints Officer and Presenting Officer

- (1) As the first step in the investigation of every conduct complaint, the Dean's Secretariat must refer the complaint to a Complaints Officer appointed by the Faculty.
- (2) The Complaints Officer may obtain such assistance from the Dean as the Officer considers necessary to carry out their functions under these rules.
- (3) As soon as reasonably practicable after a conduct complaint is referred to them, the Complaints Officer must make a recommendation to the Dean as to whether the Dean should refer the complaint to the Complaints Committee or to the Disciplinary Tribunal.
- (4) In making their recommendation under paragraph (3), the Complaints Officer must have regard to—
 - (a) the seriousness of the complaint,
 - (b) the penalties available to each body under rules 24 and 34, and
 - (c) whether the complaint raises an issue of wider importance in the application and interpretation of these rules.

- (5) Before the end of 28 days beginning with the date on which the Complaints Officer made their recommendation to the Dean under paragraph (3), the Dean must—
- (a) appoint either a Complaints Committee or a Disciplinary Tribunal,
 - (b) refer the complaint to it for consideration and decision, and
 - (c) inform the Complainer and the Member of the appointment and membership of the Complaints Committee or the Disciplinary Tribunal, as the case may be (see rules 35 and 36 on the membership of those bodies and the right to object to an appointment).
- (6) The Dean may decline to follow the Complaints Officer's recommendation in appointing a Complaints Committee or Disciplinary Tribunal under paragraph (5)(a), but if doing so must have regard to the factors set out in paragraph (4)(a) to (c).
- (7) At the same time as the Complaints Committee or Disciplinary Tribunal is appointed under paragraph (5)(a), the Dean must instruct a Presenting Officer, who may be a solicitor or an advocate, to present the complaint to the Complaints Committee or Disciplinary Tribunal (as the case may be) and to appear at any hearing in relation to the complaint.
- (8) The Presenting Officer may arrange for assistance to be engaged in relation to their presentation of the conduct complaint.
- (9) Before the end of 7 days beginning with the date on which the Complaints Committee or Disciplinary Tribunal was appointed under paragraph (5)(a), the Complaints Officer must—
- (a) draft a summary of complaint, and
 - (b) provide the Complainer, the Member, the Presenting Officer and the Complaints Committee or the Disciplinary Tribunal (as the case may be) with all the information in relation to the complaint which is in the Faculty's possession, including the summary of complaint.
- (10) The Member must, within 14 days beginning with the date on which the Member was provided with the summary of complaint, provide written answers in response to the summary of complaint.

Interim suspension of the Member

15 Interim suspension of the Member

- (1) The Dean may suspend the Member from practice on an interim basis pending the final disposal of the conduct complaint against the Member.

- (2) In addition, the Dean may suspend a Member from practice on an interim basis where a matter of concern regarding the conduct of a Member is identified by or reported to the Dean in the exercise of the Dean's disciplinary functions, and the Dean is satisfied that the matter would be an eligible conduct complaint.
- (3) Where the Dean suspends a Member from practice under paragraph (2), then unless the matter is already the subject of a conduct complaint before the Commission, the Faculty is to be taken as having identified a matter of concern for the purposes of rule 1(2) and paragraphs (2)(a)-(c) of that rule apply.
- (4) Interim suspension under paragraph (1) or (2) may—
 - (a) consist of suspension from practice in general or suspension from particular areas or types of practice, and
 - (b) may be made subject to conditions by the Dean, including (but not limited to) conditions relating to aspects of Faculty membership.
- (5) The Dean may only suspend a member under paragraph (1) or (2) if the Dean considers it necessary, having regard to—
 - (a) the need to protect the public, or
 - (b) the need to maintain public confidence in the legal profession.
- (6) The Dean may seek such further information about a complaint, or about any other matter, as the Dean considers necessary to make a decision on interim suspension under paragraph (1) or (2).
- (7) Before suspending a Member under paragraph (1) or (2), the Dean must—
 - (a) hold a hearing on the matter,
 - (b) give the opportunity to the Complainer and the Member to present written and oral arguments on the Member's possible interim suspension, and
 - (c) at least 7 days before the hearing, inform the Complainer and the Member of the date, time and place of the hearing.
- (8) The Dean may, on cause shown, reduce the period of notice required by paragraph (7)(c).
- (9) The Dean must, before the end of 7 days beginning with the date of the Dean's decision under paragraph (1) or (2), inform the Member, the Complainer and the Commission of—
 - (a) the decision,
 - (b) the reasons for the decision, and
 - (c) where the Member is suspended, the date on which their suspension begins (which may not be a date prior to the date on which the decision is notified).

16 Application for review of an interim suspension by the Dean

- (1) A Member may, after the end of 3 months beginning with the date on which the Dean informed the Member under rule 15(9) of their suspension, apply to the Dean for a review of their interim suspension.
- (2) The Dean may decide to consider an application from a Member which is made before the end of that 3 month period, if the Dean considers that exceptional circumstances arise (and the application may set out any exceptional circumstances which are said to arise).
- (3) The decision of the Dean on whether to consider an application which is made before the end of the 3 month period is final.
- (4) The Dean—
 - (a) must hold a review hearing to decide whether the interim suspension is to continue, but
 - (b) may, with the agreement of the Complainer and the Member, conduct the review on the basis of written arguments alone.
- (5) The Dean must, at least 14 days before the date of the review hearing—
 - (a) inform the Complainer and the Member of the date, time and place of the review hearing, and
 - (b) give the opportunity to the Complainer and the Member to present written and oral arguments on the Member's interim suspension.
- (6) The Dean must revoke the Member's interim suspension if the Dean considers that it is no longer necessary, having regard to the factors set out in rule 15(5)(a) to (b).
- (7) Otherwise the Dean must continue the interim suspension.
- (8) The Dean must, before the end of 7 days beginning with the date of the Dean's decision on the review, inform the Member, the Complainer and the Commission of—
 - (a) the decision, and
 - (b) the reasons for the decision.

17 Duty on the Dean to review an interim suspension periodically

- (1) The Dean must conduct a review of the interim suspension of a Member—
 - (a) before the end of 6 months beginning with the date on which the Dean informed the Member under rule 15(9) of their suspension, and

- (b) if the Dean continues the suspension, before the end of each period of 6 months beginning with the date on which the Dean informed the Member under rule 16(8) of that decision.
- (2) The Dean—
 - (a) must hold a review hearing to decide whether the interim suspension is to continue, but
 - (b) may, with the agreement of the Complainer and the Member, conduct the review on the basis of written arguments alone.
- (3) The Dean must, at least 14 days before the date of the review hearing—
 - (a) inform the Complainer and the Member of the date, time and place of the review hearing, and
 - (b) give the opportunity to the Complainer and the Member to present written and oral arguments on the Member's interim suspension.
- (4) The Dean may revoke the Member's interim suspension if the Dean considers that it is no longer necessary, having regard to the factors set out in rule 15(5)(a) to (b).
- (5) Otherwise the Dean must continue the interim suspension.
- (6) The Dean must, before the end of 7 days beginning with the date of the Dean's decision on the review, inform the Member, the Complainer and the Commission of—
 - (a) the decision, and
 - (b) the reasons for the decision.

18 Appeal of an interim suspension to the Disciplinary Tribunal

- (1) The Member may, before the end of 14 days beginning with the date on which the Dean informed the Member of their suspension under rule 15(9), or of its continuation under rule 16(8) or 17(6), appeal their interim suspension to the Disciplinary Tribunal (see rule 36 on membership of the Tribunal and the right to object to an appointment).
- (2) An appeal against interim suspension must be in writing and set out the grounds of appeal.
- (3) The Disciplinary Tribunal must hold a hearing on the appeal against the interim suspension.
- (4) The Disciplinary Tribunal must, at least 14 days before the date of the appeal hearing—
 - (a) inform the Complainer and the Member of the date, time and place of the appeal hearing, and

- (b) give the opportunity to the Complainer and the Member to present written and oral arguments on their interim suspension.
- (5) Otherwise the conduct of an appeal hearing on an interim suspension is at the discretion of the Chair of the Disciplinary Tribunal.
- (6) The Disciplinary Tribunal must revoke the Member's interim suspension if the Tribunal considers that it is no longer necessary, having regard to the factors set out in rule 15(5)(a) to (b).
- (7) Otherwise the Tribunal must continue the interim suspension.
- (8) The Disciplinary Tribunal must, before the end of 7 days beginning with the date of its decision on the appeal, inform the Member, the Complainer, the Dean and the Commission of—
 - (a) its decision, and
 - (b) the reasons for its decision.
- (9) Rules 26 to 29 do not apply to appeals against interim suspension.

19 End of an interim suspension on final disposal of conduct complaint

The final disposal of the conduct complaint to which an interim suspension relates has the effect of ending that interim suspension.

Referral to Complaints Committee for decision

20 Complaints Committee procedure: general provisions

- (1) The Clerk to the Complaints Committee must arrange for the determination hearing on a conduct complaint to be held before the end of 3 months beginning with the date on which the Committee was appointed to decide the complaint under rule 14(5)(a).
- (2) The Chair of the Complaints Committee may, on cause shown, extend the period of 3 months mentioned in paragraph (1).
- (3) The Clerk to the Complaints Committee must, at least 21 days before the date of the determination hearing, inform the Complainer, the Member and the Presenting Officer of the date, time and place of the determination hearing and any preliminary hearing.
- (4) The Presenting Officer—

- (a) may, on cause shown, draft a proposed amendment to the summary of complaint at any time before the determination hearing, and
 - (b) must, where the summary of complaint is proposed to be amended, inform the Member and the Complainer of the proposed amendment.
- (5) The Member and the Complainer may, before the end of 7 days beginning with the date on which they were informed of it, object to a proposed amendment to the summary of complaint.
- (6) Where such an objection is made after any preliminary hearing, the Complaints Committee must hold a separate hearing to decide whether the proposed amendment to the summary of complaint should be allowed, having regard to the interests of justice.
- (7) Where there is no objection to a proposed amendment to the summary of complaint, or any objection to it is not upheld, the summary of complaint as proposed to be amended is to be provided to the Complaints Committee (so far as not already provided) and taken from the expiry of the period for objection or the date of the decision (as the case may be) as the summary of complaint.
- (8) The Member must, before the end of 7 days beginning with the date on which the summary of complaint was taken to be amended under rule 20(7), provide written answers in response to the summary of complaint as amended.

21 Complaints Committee: preliminary hearing and case management

- (1) The Chair of the Complaints Committee may hold a preliminary hearing (or hearings) in order to address any procedural or other case management issues that may arise in advance of the determination hearing.
- (2) For the purpose of a preliminary hearing, the Chair may sit alone or with some, or all, of the members of the Complaints Committee.
- (3) At the preliminary hearing, the Complaints Committee may order the Complainer and the Member to do any of the following in advance of the determination hearing—
 - (a) exchange lists of witnesses,
 - (b) exchange witness statements, or
 - (c) lodge items of evidence with the Clerk to the Committee.
- (4) At the preliminary hearing, the Complaints Committee may also—
 - (a) request any information or documents from the Member, the Complainer or any other person,
 - (b) investigate the complaint in any other way it considers appropriate,

- (c) determine an objection to any proposed amendment of the summary of complaint, and
 - (d) make any other order it considers appropriate for the efficient management of the case.
- (5) The Complaints Committee may, with the agreement of the Complainer, the Member and the Presenting Officer, decide the conduct complaint at the preliminary hearing.
- (6) The Complainer and the Member must, at least 14 days before the determination hearing—
 - (a) inform the Presenting Officer and the Complaints Committee as to whether they have been able to agree the issues to be decided by the Committee and the facts relating to the conduct complaint that are not substantially in dispute between them, and
 - (b) if there is agreement, inform the Presenting Officer and Committee of what those issues and facts are.

22 Complaints Committee: determination hearing

- (1) At the determination hearing, the Complaints Committee may take any of the following actions—
 - (a) identify the issues to be decided,
 - (b) identify whether any of the facts relating to the complaint are substantially in dispute,
 - (c) obtain and consider any information or documents that may assist the Committee in its decision on the complaint,
 - (d) take evidence from witnesses, including the Member, the Complainer and any other person ,
 - (e) refer the complaint to the Disciplinary Tribunal for consideration and decision where it considers it appropriate to do so, having regard to the factors set out in rule 14(4)(a) to (c),
 - (f) dismiss the complaint,
 - (g) uphold the complaint, in whole or in part, as a complaint of professional misconduct or of unsatisfactory professional conduct,
 - (h) adjourn the hearing, on cause shown, for a period specified by the Committee,
 - (i) decide the appropriate penalty, where the Complainer, the Member and the Presenting Officer agree that a separate penalty hearing is unnecessary.

- (2) In taking evidence under paragraph 1(d), the Complaints Committee may—
 - (a) administer an oath or affirmation to a witness, and
 - (b) order a witness to take an oath or affirmation.
- (3) Where the Complaints Committee adjourns the hearing under paragraph (1)(h), it must review the adjournment—
 - (a) before the end of 3 months beginning with the date of the determination hearing, and
 - (b) if it continues the adjournment, before the end of every subsequent period of 3 months.
- (4) The Complaints Committee must, before the end of 28 days beginning with the date of the determination hearing ending, inform the Complainer, the Member, the Presenting Officer, the Dean and the Commission of its decision on the conduct complaint, including—
 - (a) details of the facts it finds proven,
 - (b) the reasons for its decision,
 - (c) the reasons for omitting or deciding not to omit any information from the decision.

Complaints Committee penalties

23 Complaints Committee: penalty hearing

- (1) Where the Complaints Committee upholds a conduct complaint, in whole or in part, it must hold a hearing to decide the appropriate penalty before the end of 14 days beginning with the date on which it informed the parties under rule 22(4) of its decision on the complaint.
- (2) The Complaints Committee must—
 - (a) inform the Complainer, the Member and the Presenting Officer of the date, time and place of the hearing, and
 - (b) give the opportunity to the Complainer, the Member and the Presenting Officer to present written and oral arguments on the appropriate penalty.
- (3) Otherwise the conduct of a hearing on the penalty is at the discretion of the Chair of the Complaints Committee.

- (4) In deciding which penalty to impose on the Member, the Complaints Committee may take into account any period of interim suspension that has already been imposed on the Member in relation to the conduct complaint.
- (5) The Complaints Committee must, before the end of 14 days beginning with the date of the hearing on the penalty, inform the Complainer, the Member, the Presenting Officer, the Dean and the Commission of its decision on the penalty, including—
 - (a) the reasons for its decision, and
 - (b) the reasons for omitting or deciding not to omit any information from the decision.

24 Penalties available to the Complaints Committee

- (1) Where the Complaints Committee upholds a conduct complaint as unsatisfactory professional conduct, it may impose on the Member one or more of the following penalties—
 - (a) a written warning on the Member's conduct,
 - (b) a written direction to take or not to take particular actions specified by the Committee (including, but not limited to, retraining and assessment, or refraining from particular areas or types of practice),
 - (c) an order for cancellation or repayment, in whole or in part, of any fees charged or chargeable by the Member in respect of the work which gave rise to the conduct complaint,
 - (d) an order for compensation to be paid to the Complainer,
 - (e) a fine to be paid to the Faculty.
- (2) Where the Complaints Committee upholds a conduct complaint as professional misconduct, it may impose on the Member one or more of the following penalties—
 - (a) any of the penalties set out in paragraph (1)(a) to (e),
 - (b) suspension from practice, with or without conditions, for a period up to a maximum of one year.
- (3) Where the Committee imposes an order for compensation or a fine, or both, the total amount to be paid by a Member, in respect of either a single conduct complaint or multiple complaints arising from the same or substantially the same conduct, must not exceed £25,000.

25 Power of the Dean to refer penalty to the Disciplinary Tribunal

- (1) Where the Dean considers that a penalty imposed by the Committee under rule 24 does not adequately reflect the seriousness of the Member's conduct, the Dean may refer the penalty to the Disciplinary Tribunal for review.
- (2) Where the Dean makes a referral under paragraph (1), the Dean must, before the end of 7 days beginning with the date of the referral, inform the Member, the Complainer, the Presenting Officer and the Commission of—
 - (a) the referral, and
 - (b) the reasons for the referral.

Appeal to the Disciplinary Tribunal

26 Permission to appeal the Complaints Committee's decision

- (1) The Complainer or the Member may, with the permission of a special committee of the Disciplinary Tribunal, appeal to the Tribunal against the Complaints Committee's decision—
 - (a) on a conduct complaint, or
 - (b) where a complaint was upheld, on the penalty.
- (2) An application for permission to appeal must be in writing and must be made to the Complaints Officer before the end of 14 days beginning with—
 - (a) where the complaint was dismissed, the date on which the person was informed under rule 22(4) of that decision, or
 - (b) where the complaint was upheld, the date on which the person was informed under rule 24(5) of the penalty (or, where the penalty was decided under rule 22(1)(i) without a separate penalty hearing, the date of the determination hearing).
- (3) An application for permission to appeal must set out the grounds of appeal, which may only be that—
 - (a) the Committee's decision was based on an error of law,
 - (b) there was a procedural impropriety in the Committee's consideration of the complaint,
 - (c) the Committee's decision was irrational, or
 - (d) the Committee's decision was not supported by the facts found to be proven by the Committee.

- (4) On receipt of an application for permission to appeal, the Complaints Officer must provide a copy of the application to the Member or the Complainer (that is, whoever did not make the application), the Presenting Officer and the Dean.
- (5) Before the end of 14 days beginning with the date on which the application was received, the Dean must appoint a special committee to hear the application for permission to appeal, whose membership must consist of—
 - (a) one senior advocate,
 - (b) one junior advocate, and
 - (c) two lay persons appointed by the Chair of the Disciplinary Tribunal from the panel of lay persons mentioned in rule 36(1)(c).
- (6) The special committee may decide the application unanimously or by a majority, with every member having an equal vote, but the senior advocate is to have the casting vote if there is a tie.
- (7) The special committee may grant permission to appeal only if it considers that—
 - (a) the appeal has a real prospect of success, or
 - (b) there is another compelling reason to do so.
- (8) Otherwise the special committee must refuse permission to appeal.
- (9) The decision of the special committee to grant or refuse permission to appeal is final.
- (10) The special committee must, before the end of 28 days beginning with the date of the decision, inform the Complainer, the Member, the Presenting Officer, the Dean and the Commission of the decision of the special committee on an application for permission to appeal.

27 Disciplinary Tribunal appeal procedure: general provisions

- (1) The Disciplinary Tribunal must hold the appeal hearing before the end of 2 months of the date on which the special committee granted permission to appeal under rule 26(7).
- (2) The Clerk to the Tribunal must, at least 21 days before the date of an appeal hearing before the Disciplinary Tribunal, inform the Complainer, the Member, the Presenting Officer and the Dean of—
 - (a) the date, time and place of the appeal hearing and any preliminary hearing, and
 - (b) the membership of the Disciplinary Tribunal hearing the appeal.
- (3) Where the Complainer, the Member, and the Dean appear or are represented before the Disciplinary Tribunal in any appeal (but not otherwise) rules 28 and 29 apply.

- (4) The Dean may be represented before the Disciplinary Tribunal by an advocate instructed from a panel of 9 advocates of at least 10 years' call approved by the Faculty for the purpose of this rule and rule 31.

28 Disciplinary Tribunal: preliminary hearing on appeal and case management

- (1) The Chair of the Disciplinary Tribunal may hold a preliminary hearing (or hearings) in order to address any procedural or other case management issues that may arise in advance of the main appeal hearing.
- (2) For the purpose of a preliminary hearing, the Chair may sit alone or with some, or all, of the members of the Disciplinary Tribunal.
- (3) At the preliminary hearing, the Disciplinary Tribunal must require the Complainer, the Member, the Presenting Officer and the Dean to prepare written arguments on the appeal, to be lodged at least 14 days before the date of the appeal hearing.
- (4) The Disciplinary Tribunal may make any other order it considers appropriate for the efficient management of the appeal.
- (5) The Disciplinary Tribunal may, with the agreement of the Complainer, the Member and the Dean, decide the appeal at a preliminary hearing (and where it does so paragraph (3) does not apply).

29 Appeal hearing

- (1) The Disciplinary Tribunal must give the opportunity to the Complainer, the Member, the Presenting Officer and the Dean to present oral arguments on the appeal.
- (2) Otherwise the conduct of an appeal hearing is at the discretion of the Chair of the Disciplinary Tribunal.
- (3) The Disciplinary Tribunal may uphold an appeal only if it considers that any of the grounds of appeal set out in rule 26(3) are established.
- (4) Otherwise the Disciplinary Tribunal must refuse the appeal.
- (5) The Disciplinary Tribunal may take any of the following actions at the appeal hearing—
 - (a) uphold the Complaints Committee's decision on the conduct complaint, in whole or part,
 - (b) set aside the Complaints Committee's decision on the conduct complaint and substitute its own decision,
 - (c) refer the complaint back to the Complaints Committee for a rehearing,

- (d) dismiss the complaint, or
 - (e) make any other order the Tribunal considers appropriate.
- (6) In relation to the appropriate penalty (whether on appeal against a penalty or where a conduct complaint is upheld on appeal), the Disciplinary Tribunal may, after holding a penalty hearing in accordance with rule 33 or deciding the penalty under paragraph (7)—
- (a) uphold the Complaints Committee’s decision on the penalty,
 - (b) vary any penalty imposed by the Complaints Committee, or
 - (c) set aside the Complaints Committee’s decision and substitute any penalty set out in rule 34.
- (7) The Disciplinary Tribunal may decide the appropriate penalty at the appeal hearing, where the Complainer, the Member, the Presenting Officer and the Dean agree that a separate penalty hearing is unnecessary.
- (8) Where the Disciplinary Tribunal refers a conduct complaint back to the Complaints Committee for a rehearing under paragraph (5)(c), the Committee must—
- (a) be appointed by the Dean with a different membership to the previous Committee against whose decision the appeal was brought, and
 - (b) except on cause shown, rehear the complaint on the same evidence as that previous Committee.
- (9) The Disciplinary Tribunal must, before the end of 28 days beginning with the date of an appeal hearing, inform the Complainer, the Member, the Dean and the Commission of its decision on the appeal, including—
- (a) details of the facts it finds proven,
 - (b) the reasons for the Tribunal’s decision (including the reasons for any variation or substitution of any penalty), and
 - (c) the reasons for omitting or deciding not to omit any information from the decision.

Referral to the Disciplinary Tribunal for decision

30 Disciplinary Tribunal decision procedure: general provisions

- (1) The Clerk to the Tribunal must arrange for the determination hearing on the conduct complaint to be held before the end of 3 months beginning with the date on which the complaint was referred to the Tribunal under rule 14(5)(b) or 22(1)(e) (as the case may be).

- (2) The Chair of the Disciplinary Tribunal may, on cause shown, extend the period of 3 months mentioned in paragraph (1)(a).
- (3) The Clerk to the Tribunal must, at least 21 days before the date of a determination hearing before the Disciplinary Tribunal, inform the Complainer, the Member, the Presenting Officer and the Dean of—
 - (a) the date, time and place of the determination hearing and any preliminary hearing, and
 - (b) where the complaint was referred by the Complaints Committee under rule 22(2)(e), the membership of the Disciplinary Tribunal.
- (4) Where the Complainer, the Member, and the Dean appear or are represented before the Disciplinary Tribunal (but not otherwise) rules 31, 32 and 33 apply.
- (5) The Dean may be represented before the Disciplinary Tribunal by an advocate instructed from the panel of advocates mentioned in rule 27(4).
- (6) The Presenting Officer—
 - (a) may, on cause shown, draft a proposed amendment to the summary of complaint at any time before the determination hearing, and
 - (b) must, where the summary of complaint is proposed to be amended, inform the Member, the Complainer and the Dean of the proposed amendment.
- (7) The Member, the Complainer and the Dean may, before the end of 7 days beginning with the date on which they were informed of it, object to a proposed amendment to the summary of complaint.
- (8) Where such an objection is made after any preliminary hearing, the Disciplinary Tribunal must hold a separate hearing to decide on whether the proposed amendment to the summary of complaint should be allowed, having regard to the interests of justice.
- (9) Where there is no objection to a proposed amendment to the summary of complaint, or any objection to it is not upheld, the summary of complaint as proposed to be amended is to be provided to the Disciplinary Tribunal (so far as not already provided) and taken from the expiry of the period for objection or the date of the decision (as the case may be) as the summary of complaint.
- (10) The Member must, before the end of 7 days beginning with the date on which the summary of complaint was taken to be amended under rule 20(7), provide written answers in response to the summary of complaint as amended.

31 Disciplinary Tribunal: preliminary hearing and case management

- (1) The Chair of the Disciplinary Tribunal may hold a preliminary hearing (or hearings) in order to address any procedural or other case management issues that may arise in advance of the main hearing.
- (2) For the purpose of a preliminary hearing, the Chair may sit alone or with some, or all, of the members of the Disciplinary Tribunal.
- (3) At the preliminary hearing, the Tribunal may order the Complainer and the Member to do any of the following in advance of the determination hearing—
 - (a) exchange lists of witnesses,
 - (b) exchange witness statements, or
 - (c) lodge items of evidence with the Clerk to the Disciplinary Tribunal.
- (4) At the preliminary hearing, the Disciplinary Tribunal may also—
 - (a) request any information or documents from the Member, the Complainer or any other person,
 - (b) investigate the complaint in any other way it considers appropriate,
 - (c) determine an objection to any proposed amendment of the summary of complaint, and
 - (d) make any order it considers appropriate for the efficient management of the case.
- (5) The Disciplinary Tribunal may, with the agreement of the Complainer, the Member and the Dean, decide the conduct complaint at the preliminary hearing.
- (6) The Complainer and the Member must, at least 14 days before the determination hearing—
 - (a) inform the Disciplinary Tribunal as to whether they have been able to agree the issues to be decided by the Tribunal and the facts relating to the conduct complaint that are not substantially in dispute between them, and
 - (b) if there is agreement, inform the Tribunal of what those issues and facts are.

32 Disciplinary Tribunal: determination hearing

- (1) At the determination hearing, the Disciplinary Tribunal may take any of the following actions—
 - (a) identify the issues to be decided,
 - (b) identify whether any of the facts relating to the complaint are substantially in dispute,

- (c) obtain and consider any information or documents that may assist the Tribunal in its decision on the complaint,
 - (d) take evidence from witnesses, including the Member, the Complainer and any other person,
 - (e) dismiss the complaint,
 - (f) uphold the complaint, in whole or in part, as a complaint of professional misconduct or of unsatisfactory professional conduct,
 - (g) adjourn the hearing, on cause shown, for a period specified by the Tribunal,
 - (h) decide the appropriate penalty, where the Complainer, the Member, the Presenting Officer and the Dean agree that a separate penalty hearing is unnecessary.
- (2) In taking evidence under paragraph (1)(d), the Disciplinary Tribunal may—
- (a) administer an oath or affirmation to a witness, and
 - (b) order a witness to take an oath or affirmation.
- (3) Where the Disciplinary Tribunal adjourns the hearing under paragraph (1)(g), it must review the adjournment—
- (a) before the end of 3 months beginning with the date of the determination hearing, and
 - (b) if it continues the adjournment, before the end of every subsequent period of 3 months.
- (4) The Disciplinary Tribunal must, before the end of 28 days beginning with the date of the determination hearing ending, inform the Complainer, the Member, the Dean and the Commission of its decision on the conduct complaint, including—
- (a) details of the facts it finds proven,
 - (b) the reasons for its decision, and
 - (c) the reasons for omitting or deciding not to omit any information from the decision.

Disciplinary Tribunal penalties

33 Disciplinary Tribunal: penalty hearing

- (1) This rule applies where—
- (a) the Disciplinary Tribunal upholds a complaint, in whole or in part, under rule 32(1)(f),

- (b) the Disciplinary Tribunal is considering the appropriate penalty on appeal under rule 26(1)(b), or
 - (c) the Dean refers a penalty to the Disciplinary Tribunal for review under rule 25(1).
- (2) The Disciplinary Tribunal must hold a hearing to decide the appropriate penalty before the end of 14 days beginning with—
 - (a) the date on which the Tribunal informed the parties under rule 33(8) of its decision on the conduct complaint, or
 - (b) the date of the Dean’s referral under rule 26(1).
- (3) The Disciplinary Tribunal must inform the Complainer, the Member, the Presenting Officer and the Dean of the date, time and place of the hearing on penalty.
- (4) The Disciplinary Tribunal must give the opportunity to present written and oral arguments on the appropriate penalty—
 - (a) to the Member, the Complainer and the Presenting Officer, and
 - (b) where the Dean referred the penalty for review under rule 26(1), to the Dean.
- (5) Otherwise the conduct of a hearing on penalty is at the discretion of the Chair of the Disciplinary Tribunal.
- (6) In deciding the appropriate penalty to impose, the Disciplinary Tribunal may take into account any period of interim suspension that has already been imposed on the Member in relation to the conduct complaint.
- (7) The Disciplinary Tribunal must, before the end of 28 days beginning with the date of the hearing on penalty, inform the Complainer, the Member, the Dean and the Commission of—
 - (a) its decision on the penalty,
 - (b) the reasons for its decision, and
 - (c) the reasons for omitting or deciding not to omit any information from the decision.

34 Penalties available to the Disciplinary Tribunal

- (1) The Disciplinary Tribunal may impose on the Member one or more of the following penalties—
 - (a) a written warning on the Member’s conduct,

- (b) a written direction to take or not to take particular actions specified by the Tribunal (including, but not limited to, retraining and assessment, or refraining from particular areas or types of practice),
 - (c) an order for cancellation or repayment, in whole or in part, of any fees charged or chargeable by the Member in respect of the work which gave rise to the conduct complaint,
 - (d) an order to pay compensation to the Complainer,
 - (e) a fine to be paid to the Faculty,
 - (f) suspension from practice, with or without conditions, for a period up to a maximum of 5 years,
 - (g) suspension from membership of the Faculty, with or without conditions, for a period up to a maximum of 5 years,
 - (h) expulsion from membership of the Faculty.
- (2) Where the Tribunal imposes an order for compensation or a fine, or both, the total amount to be paid by a Member, in respect of either a single conduct complaint or multiple complaints arising from the same or substantially the same conduct, must not exceed £50,000.

Membership of the Complaints Committee and the Disciplinary Tribunal

35 Membership of the Complaints Committee

- (1) The membership of the Complaints Committee in a particular case must consist of 4 persons, appointed by the Dean as follows—
- (a) 2 persons selected from a panel of 8 eight senior advocates approved by the Faculty to serve for the purpose of this rule, and
 - (b) 2 persons selected from a panel of lay persons approved by the Scottish Ministers to serve for the purpose of this rule and rules 26 and 36.
- (2) The persons on the panel mentioned in paragraph (1)(b) and in rule 26(5)(c) and 36(1)(c)—
- (a) must be nominated to serve on the panel by the Faculty,
 - (b) must, where the nomination is accepted, be approved to serve on the panel by the Scottish Ministers, and
 - (c) are to serve for a term of 5 years, subject to renewal as the Scottish Ministers consider appropriate.

- (3) The Dean may appoint a senior advocate to serve on a Complaints Committee on a temporary basis.
- (4) The Chair of the Complaints Committee is to be the member of the committee who is the most senior advocate, as determined by the number of years since appointment as King's or Queen's Counsel (or, where that number is equal, as determined by the Dean).
- (5) The Complainer or the Member may, on cause shown, object to the appointment of any person to the Complaints Committee.
- (6) An objection must—
 - (a) be in writing and set out the grounds of objection, and
 - (b) be made before the end of 7 days beginning with the date on which the person making the objection was informed of the membership of the Complaints Committee under rule 14(5)(c).
- (7) Where a person whose appointment is objected to recuses themselves from being on the Committee, the Chair (or in the case of an objection to the appointment of the Chair, the Dean) must appoint another person from the same panel as before.
- (8) Where a person whose appointment is objected to does not recuse themselves from being on the Committee, the Chair (or in the case of an objection to the appointment of the Chair, the Dean) must—
 - (a) either hold a hearing to decide the objection or, with the agreement of the Complainer and the Member, decide the objection on the basis of written arguments alone, and
 - (b) if the objection is upheld, appoint another person from the same panel as before.
- (9) A decision of the Complaints Committee on any matter may be made unanimously or by a majority, with every member of the Committee having an equal vote, but the Chair is to have the casting vote if there is a tie.

36 Membership of the Disciplinary Tribunal

- (1) Other than under rule 26, the membership of the Disciplinary Tribunal in a particular case must consist of a Chair and 5 other persons, appointed by the Dean as follows —
 - (a) the Chair, selected from a panel of 3 persons approved by the Lord President of the Court of Session to serve for the purpose of this rule,
 - (b) 2 advocates, including at least one senior advocate, selected from a panel of 12 advocates (including at least 6 senior advocates) approved by the Faculty to serve for the purpose of this rule, and

- (c) 3 lay persons selected from a panel of lay persons approved by the Scottish Ministers for the purpose of this rule and rule 26 and 35.
- (2) The persons on the panel mentioned in paragraph (1)(a)—
 - (a) must be retired Justices of the Supreme Court, retired Senators of the College of Justice or other appropriate persons, and
 - (b) are to serve for a term of 3 years, and for any further period which may be necessary to achieve the final disposal of a conduct complaint referred or appealed to the Disciplinary Tribunal during that period.
- (3) The Chair of the Disciplinary Tribunal may appoint a solicitor to serve on the Tribunal in place of one of the advocates mentioned in paragraph (1)(b).
- (4) The Chair must select any solicitor appointed in terms of paragraph (3) from a panel of 3 solicitors who have practised for at least 10 years, appointed by the President of the Law Society of Scotland for the purpose of this rule.
- (5) The Complainer or the Member may, on cause shown, object to the appointment of any person to the Disciplinary Tribunal.
- (6) An objection must—
 - (a) be in writing and set out the grounds of objection, and
 - (b) be made before the end of 7 days beginning with the date on which the person making the objection was informed of the membership of the Disciplinary Tribunal under rule 14(5)(c), 27(2)(b) or 30(3)(b) (as the case may be).
- (7) Where a person whose appointment is objected to recuses themselves from being on the Tribunal, the Chair (or in the case of an objection to the appointment of the Chair, the Dean) must appoint another person from the same panel as before.
- (8) Where a person whose appointment is objected to does not recuse themselves from being on the Tribunal, the Chair (or in the case of an objection to the appointment of the Chair, the Dean) must—
 - (a) either hold a hearing to decide the objection or, with the agreement of the Complainer and the Member, decide the objection on the basis of written arguments alone, and
 - (b) if the objection is upheld, appoint another person from the same panel as before.
- (9) A determination of the Disciplinary Tribunal on any matter may be made unanimously or by a majority, with every member of the Tribunal having an equal vote, but the Chair is to have the casting vote if there is a tie.

Petition for removal of the Member

37 Petition for removal of the Member from the public office of advocate

- (1) This rule applies where a Member is suspended or expelled from membership of the Faculty by the Disciplinary Tribunal under rule 34(g) or (h).
- (2) The Dean must, on behalf of the Faculty, petition the Court of Session to remove the Member from the public office of advocate—
 - (a) where a Member is suspended from membership, for the period of that suspension, or
 - (b) where a Member is expelled from membership, without limitation of time.

Publication of decisions on conduct complaints

38 General rules on publication of decisions

- (1) The Faculty must publish every decision by the Complaints Committee or by the Disciplinary Tribunal which—
 - (a) determines a conduct complaint (under rule 21, 22, 28, 29, 31 or 32), or
 - (b) imposes a penalty on a Member (under rule 22, 23, 29, 32 or 33).
- (2) The published decision must include—
 - (a) details of the facts found proven,
 - (b) the reasons for the decision, and
 - (c) where relevant, information about any penalty imposed.
- (3) The decision must be published—
 - (a) on the Faculty's website at www.advocates.org.uk, and
 - (b) after the end of 28 days beginning with the date of the final disposal of the complaint.
- (4) The Complaints Committee or the Disciplinary Tribunal (as the case may be) may omit information from the published decision which it considers would be likely to damage the interests of persons other than—
 - (a) the Member against whom the complaint is made, or
 - (b) the Member's partner or family.
- (5) The Complaints Committee or the Disciplinary Tribunal (as the case may be) must give reasons in the published decision for omitting any information from it under paragraph (4).

- (6) Where it dismisses a conduct complaint, the Complaints Committee or the Disciplinary Tribunal (as the case may be) may omit the name of the Member from the published decision.
- (7) Before making any determination in relation to the publication of its decision, the Complaints Committee or the Disciplinary Tribunal (as the case may be) must give the opportunity to the Complainer, the Member and the Dean to present written and oral arguments on the issue of publication before the end of 14 days beginning with the date of the final disposal of the complaint.
- (8) Where the Complainer, the Member or the Dean wishes to present oral arguments, the Complaints Committee or the Disciplinary Tribunal (as the case may be) must fix a hearing to determine the issue of publication, which is to be held before the end of 21 days beginning with the date of the final disposal of the complaint.

39 Time periods for publication of decisions

- (1) The Faculty must ensure that a published decision on a conduct complaint remains on the Faculty's website for at least 2 years beginning with the date of the decision.
- (2) Where a decision does not involve any period of suspension or expulsion from membership of the Faculty, the Faculty must remove the published decision from the Faculty's website after 2 years beginning with the date of the decision.
- (3) Where a decision involves a period of suspension from practice of 12 months or less, the Faculty must remove the published decision from the Faculty's website after 5 years beginning with the date on which the suspension ended.
- (4) Where a decision involves a period of suspension from practice of more than 12 months, the Faculty must remove the published decision from the Faculty's website after 10 years beginning with the date on which the suspension ended.
- (5) Where a decision involves expulsion from the Faculty, the Faculty must remove the published decision from the Faculty's website after 60 years beginning with the date of the decision.