

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

INTERLOCUTOR

in Complaint

by

**THE COUNCIL OF THE LAW SOCIETY
OF SCOTLAND, Atria One, 144 Morrison
Street, Edinburgh (hereinafter referred to as
"the Complainers")**

against

**TASMINA AHMED-SHEIKH, 75 Newlands
Road, Newlands, Glasgow (hereinafter
referred to as "the Respondent")**

By Video Conference, 24 June 2021. The Tribunal, having received written submissions and heard oral submissions in relation to the Complaint at the instance of the Council of the Law Society of Scotland against Tasmina Ahmed-Sheikh, 75 Newlands Road, Newlands, Glasgow; Repels the Respondent's preliminary plea to the competency based on time bar; Reserves the Respondent's preliminary pleas to the competency and relevancy of the averments identified in the Respondent's Note of Argument; Reserves all questions of expenses meantime; Fixes a virtual procedural hearing on 21 July 2021; and Fixes a hearing in person on 27 September 2021.



**Catherine Hart
Vice Chair**

NOTE

A Complaint against the Respondent was lodged with the Tribunal in January 2020. The case called for a virtual procedural hearing on 25 August 2020. The Tribunal fixed a preliminary hearing for 1 December 2020. The Complaint and Answers were adjusted by parties in September and October 2020. Notes of Argument were submitted by parties in November 2020. The preliminary hearing fixed for 1 December 2020 was adjourned to 17 March 2021 and then to 11 May 2021 without the case calling on either of those dates. The case called for a preliminary hearing on 24 June 2021.

At the preliminary hearing on 24 June 2021, the Complainers were represented by their Fiscal, Grant Knight, Solicitor, Edinburgh. The Respondent was not present but was represented by Anne Kentish, Solicitor, Edinburgh. The Tribunal had the following papers lodged by parties before it: the Complaint as adjusted to 22 September 2020; Answers as adjusted to 20 October 2020; One Inventory of Productions for the Complainers; Three Inventories of Productions for the Respondent; Notes of Argument from both parties; and Lists of Authorities from both parties. The Note of Argument for the Respondent outlined that the Respondent's primary position was to seek dismissal of the Complaint on the basis of competency. It was said that the original complaint was time barred. The Respondent's secondary position, in the event that the Tribunal did not dismiss the Complaint on the basis of the primary argument, was to invite the Tribunal to exclude from probation certain averments of the Complaint on the basis of competency and relevancy.

Ms Kentish noted that the SLCC's decision on the Respondent's handling complaint has been issued. Discussions had taken place between the parties' representatives. Parties wished to move towards a hearing with restricted and limited issues in dispute. Ms Kentish did not propose to argue either the primary or secondary positions in the Respondent's Note of Argument at the preliminary hearing on 24 June 2021. She did not intend to make the competency argument regarding time bar at all but said it was within the Tribunal's inherent powers to consider it. She said she would leave the matter to the Tribunal. She suggested a hearing was fixed to take the form a proof before answer, leaving aside the secondary argument for the Respondent which could be determined at the hearing. She noted that parties were in discussion about the Complainers providing documents to the Respondent.

Mr Knight said his position was broadly similar to that advanced by Ms Kentish with the exception of the approach to the preliminary plea which related to time bar. He noted that the issue had been live since October 2020. A Note of Argument had been prepared. However, the Respondent did not intend to advance the argument in any way at the preliminary hearing and wished to pass it over to the Tribunal. This, he submitted, was unsatisfactory. If the preliminary plea was not to be argued, it should be repelled. It was a preliminary point which ought to be determined before a hearing because it concerned whether a proof should be set. He had some reservations regarding the relevancy argument contained in the secondary position, but did not ask the Tribunal to repel these preliminary pleas at this stage. These matters could be dealt with by the Tribunal at a proof before answer. If the Tribunal repelled the plea to the competency based on time bar, he moved for expenses. In terms of further procedure, he sought a one-day hearing. He noted the helpful discussions he had with Ms Kentish. He intended to search for the documents she requested. If he does not have those documents the Respondent may require to undertake some further procedure to obtain them. Parties are still in discussion regarding a Joint Minute. Ms Kentish opposed the Complainers' motion for expenses. She said the Respondent had tried to limit costs. She suggested a one-day hearing would be sufficient.

The Chair asked parties for submissions on whether a remote hearing or a hearing in person was appropriate. Mr Knight indicated he had no preference, noting that the Complaint is focussed on the Respondent's duties as cashroom manager. Her credibility is not hugely in issue.

The Tribunal considered that the plea to the competency based on time bar went to the heart of the Complaint and required to be resolved before the hearing. It was a preliminary plea based on competency. If the Complaint was incompetent the matter should be decided at the preliminary hearing fixed for that purpose and before any hearing. There was no need to hear evidence on this point. The plea was not withdrawn, but the Respondent did not wish to pursue it at the preliminary hearing. The Tribunal could see no benefit in holding the matter over to the hearing. While the Tribunal has inherent jurisdiction to consider competency and fairness in its proceedings, no argument was advanced at the preliminary hearing as to why it should exercise its powers.

The Tribunal reserved the preliminary pleas relating to competency and relevancy outlined in the Respondent's secondary position in her Note of Argument to the hearing which will proceed as a proof before answer. The Tribunal noted the Fiscal's intention to disclose

information to the Respondent. The Tribunal's expectation is that the Complainers should provide any papers by 8 July 2021. Progress can then be assessed at the next virtual procedural hearing which was set for 21 July 2021 at 9:30am. A hearing in person was set for 27 September 2021. The Tribunal set a hearing in person since the position regarding witnesses, productions, and agreement of evidence was still unclear. Parties can address the Tribunal on this matter again at the virtual procedural hearing if required.



Catherine Hart
Vice Chair