

Hearings before the Scottish Solicitors' Discipline Tribunal

What time will the Tribunal start?

The Tribunal usually starts at 10am. The parties will have been given notice of the start time at least three weeks before the hearing date. For individual cases, please check the Tribunal's diary on the website.

Where does the Hearing take place?

The Tribunal mainly sits in Edinburgh when it is meeting in person. Parties will have this information in their Notices and it is also on the Tribunal website diary one week in advance of the hearing.

Are Hearings held in public?

Hearings are held in public unless parties apply for the hearing to be in private. Please consult the 2008 and 2024 Rules for more information on making such an application.

Who sits on the Tribunal?

The Tribunal's comprises two legal members (one being the Chair) and two lay members. A Clerk is also present but only advises on procedure and takes no part in the decision process.

What is the difference between procedural hearing, preliminary hearing and hearing?

A procedural hearing is a short hearing which is set in order to ascertain whether or not the facts in the case are in dispute, what evidence will be required and whether there are any preliminary issues to be decided before a full hearing can be fixed. If legal matters are raised, it may be that a preliminary hearing/debate is required to deal with issues such as competency, relevancy, delay or Human Rights. A full hearing (also referred to as a substantive hearing) is fixed in most cases. This may involve the leading of evidence or may be a plea of guilty in which case the Tribunal will just hear submissions from both parties and then go on to either make a finding of professional misconduct or not.

Lodging of Productions.

A List of Productions and the Productions themselves must be lodged at least 14 days prior to the hearing. If you require any witnesses then a List of Witnesses must be produced at least 14 days prior to the hearing for cases proceeding under the 2024 Rules, and 7 days for cases proceeding under the 2008 Rules. These should also be sent to the other parties.

Witnesses.

It is important to you contact the witness prior to the hearing to ascertain whether they can attend informing them of the date, time and venue. If a witness refuses to attend, please refer to Schedule 4, para 12 of the Solicitors (Scotland) Act 1980.

Arriving at the Tribunal.

It is important you arrive at least 10 minutes before the hearing is due to start. If you are delayed, then please call the venue at which the hearing is taking place to advise.

The lodging of Productions late is dissuaded but if it is necessary please bring the original and five copies for the Tribunal and a copy for the other parties.

The Bar Officer will be there to greet you. They will show you where to wait and will direct you when the case is to be called. If you have any queries, please do not hesitate to ask them.

What happens at a Hearing?

The Bar Officer will take you into the hearing room and advise where to sit.

The Clerk will call the case formally and the Chair will manage the hearing.

Evidence may be led by every party followed by submissions.

Questions can be asked by any of the Tribunal members.

Parties and any members of the public retire whilst the Tribunal makes its deliberations.

Parties and any members of the public return to hear the Tribunal's decision.

Submissions are invited from parties on publicity and expenses.

How long will a hearing last?

This will depend on the complexity of the case. Generally, cases last a few hours but may take longer if there are witnesses and evidence requires to be led.

How are expenses awarded?

The Tribunal has the power to award expenses in terms of Schedule 4 to the Solicitors (Scotland) Act 1980. Expenses are usually awarded to the successful party and include the expenses of the Tribunal. Last-minute adjournments can result in an unnecessary increase in expense. Parties have the opportunity to make submissions on expenses at the conclusion of the case. Accounts of Expenses can be taxed by the Auditor of the Court of Session.

Cases lodged with the Tribunal before 1 September 2024

In general, the Tribunal makes awards of expenses on the agent and client, client paying basis in terms of Chapter Three of the last published Law Society's Table of Fees for general business with a unit rate of £14.00.

Cases lodged with the Tribunal on or after 1 September 2024

In general, the Tribunal uses the party and party scale as its starting point and uses the unit rate contained in the Act of Sederunt (Taxation of Judicial Expenses) Rules 2019. However, expenses are a matter for the Tribunal's discretion. Further information can be found in the expenses guidance on the Tribunal's website (www.ssdt.org.uk/guidance).

The Written Decision

The Decision of the Tribunal is sent out to all parties usually within six weeks of the Tribunal Hearing, although it may take longer depending on the intricacies of the case. Except in exceptional circumstances, decisions will be issued within 3 months of the hearing.

Appealing the Decision

Parties may appeal the Decision to the Court of Session within 21 days from the date of intimation as stated in Section 54 of the Solicitors (Scotland) Act 1980. Please contact the Court of Session for information on lodging an Appeal.

Contacting the Tribunal Office.

If you have any further queries on the procedure of the Tribunal, please contact us on:

Telephone: 01334 659088

Email: enquiries@ssdt.org.uk

Post: Unit 3.5, The Granary Business Centre, Coal Road, Cupar, KY15 5EQ