

# SLCC update report on the Faculty of Advocates' response to our recommendations

## Introduction

The Scottish Legal Complaints Commission's (**SLCC**) oversight function forms a core part of the regulatory system for legal services in Scotland. We provide independent oversight of the complaints and redress system of the Faculty of Advocates (**Faculty**).

Our aim is to ensure Faculty runs a well functioning conduct complaint handling process. By analysing trends and data we aim to drive improvement and ultimately to promote public confidence in the regulation of legal services.

## Handling complaints

Both the person who makes a complaint and the advocate complained about can make a handling complaint to the SLCC about how Faculty dealt with the investigation of the complaint. Under Section 36 of the Legal Profession and Legal Aid (Scotland) 2007 Act, we can make recommendations about Faculty's procedures for, and methods of dealing with conduct complaints.

A handling report issued in December 2023 resulted in three Section 36 recommendations;

1. Improve the clarity of its Disciplinary Rules
2. Write a complaints policy and procedure manual
3. Review its training for Complaints Committee members

In January 2024, Faculty committed to the following actions;

1. Draft new Disciplinary Rules and instruct a parliamentary draftsman to undertake this work. This work was anticipated to start in July 2024. Faculty confirmed it was also consulting on a proposal that the burden of proof be changed from the criminal standard (beyond reasonable doubt) to the civil standard (balance of probabilities).
2. Draft a new policy and procedure manual, following completion of its work on the Disciplinary Rules and its new publication policy.

3. Review the training it provides for Complaints Committee members with the aim of introducing a new approach aligned to changes to its complaints procedures and the introduction of a complaints policy.

## Review of conduct complaint investigations

We reviewed the route all conduct complaints referred to Faculty for investigation since January 2020 have taken through Faculty's complaints process, and the time taken to complete the investigations.

In June 2024, we published our [final report](#). Based on our analysis, we concluded Faculty's current complaints process is overly complex and extremely challenging to navigate. As a result of our review, we made two further Section 36 recommendations;

4. Issue sanctions guidance to improve the consistency and transparency of decision making in relation to the penalties imposed by Complaints Committees and the Disciplinary Tribunal.
5. Create comprehensive guidance for complainers that explains the new Disciplinary Rules and complaints process, and the actions they are required to take at different stages of the process.

## Compliance with statutory recommendations

In January 2025, Faculty submitted an update report on the implementation status of the five statutory recommendations. In order to drive accountability, Faculty has developed a complaints project plan which informs all Faculty actions in response to the recommendations. In May 2025, Faculty provided a further update to inform this report.

### 1. Improve the clarity of its Disciplinary Rules

Faculty took steps to update the current 2019 Disciplinary Rules in January 2024 and provided those updates to the Lord President. The Lord President provided recommendations for Faculty to consider, and ultimately Faculty decided to look at the SLCC and Lord President's recommendations together, alongside proposed new legislation from the Regulation of Legal Services (Scotland) Bill.

In July 2024, Faculty instructed a parliamentary draftsman to fully review and re-write the Disciplinary Rules, which had previously been updated in 2015 and 2019. An updated publication policy will be included in the new Disciplinary Rules. In January 2025, Faculty confirmed the re-draft was complete with minor points of clarity to be approved internally. Faculty expected the Disciplinary Rules to be shared with the Lord President for approval in January 2025.

In May 2025, Faculty advised its comprehensive approach and ongoing legislative changes had contributed to delay in finalising the Disciplinary Rules. Minor points of clarity were still to be approved internally and would go before Faculty Council at the beginning of June 2025.

The SLCC welcomes the decision to fully review and re-write the Disciplinary Rules. Improving the clarity of the Disciplinary Rules and simplifying the complaints process is necessary to ensure it can be navigated by unrepresented complainers and easily understood by all parties.

The inclusion of a revised publication policy, that is consistently applied, is essential to hold Faculty accountable to the public for the decisions taken. It is also key to ensuring the learning from complaints is shared with all members of Faculty. The SLCC have repeatedly raised with Faculty the need to modernise its approach to the publication of decisions, to ensure that information is accessible, useful, and transparent.

We note the progress made since July 2024 and welcome the comprehensive approach taken by Faculty. However, we do have concerns that the new Disciplinary Rules are not yet finalised and approved. As a result, individuals making complaints will not currently benefit from the proposed changes to Faculty's complaints process. Our expectation is that the Disciplinary Rules will be shared with the Lord President by July 2025. The SLCC would welcome a commitment by Faculty to implementing the Disciplinary Rules swiftly once approved.

## **2. Write a complaints policy and procedure manual**

The new Complaints Policy and Procedure Manual will not be approved and published until the Disciplinary Rules are approved by the Lord President. Work has however commenced on the manual and related information for complainers with a particular focus on supporting and providing adjustments for vulnerable complainers.

This includes the introduction of free legal representation for complainers in support of a fair and equitable process. The initiative features a panel of 24 junior and senior advocates who have agreed to be available for instruction at the outset of complaints or Tribunal proceedings. Guidance outlining expectations for counsel involved in these cases has been issued, and corresponding guidance for the public will be published in alignment with the new Disciplinary Rules and Faculty's updated policies and procedures.

We note that completion of the policy and procedure manual is dependent on the Disciplinary Rules being finalised and approved by the Lord President.

We welcome the focus on supporting and providing adjustments for vulnerable complainers and the commitment to provide representation via the Free Legal Services Unit.

A policy and procedure manual, with indicative timescales, will be of benefit to complainers, advocates and those managing and determining complaints. Currently, the absence of such a document makes it difficult for the SLCC to assess if Faculty is following its own standard process.

### **3. Review its training for Complaints Committee members**

Training for members of the Complaints Committee will commence once the Disciplinary Rules have been finalised and published. The training will be informed by both the recommendations and feedback received from members of the Complaints Committee and the Disciplinary Tribunal and is scheduled to begin as soon as possible following publication of the new Disciplinary Rules.

In the interim, new lay members have been appointed to the Complaints Committee and Disciplinary Tribunal. In April 2025, training was delivered to the new lay members, and all existing lay members still within their term of appointment. The next step will be to provide comprehensive, joint training to all members of the Committee and Tribunal, aligned with the revised procedures.

Faculty have confirmed the training will be compulsory for all members of the Complaints Committees and the Disciplinary Tribunal. As with the policy and procedure manual, we acknowledge the dependence of the development of training on the finalisation and approval of the Disciplinary Rules.

### **4. Issue sanctions guidance to improve the consistency and transparency of decision making in relation to the penalties imposed by Complaints Committees and the Disciplinary Tribunal.**

To ensure that the sanctions guidance is clear and aligned with the new Disciplinary Rules, Faculty has contracted out this work, with the aim of finalising the guidance for approval in June 2025.

The application of sanctions in a consistent and transparent manner is necessary to demonstrate to the public and the profession that they can have confidence Faculty is upholding standards of conduct and imposing proportionate and fair penalties when those standards are not met.

### **5. Create comprehensive guidance for complainers that explains the new Rules and complaints process, and the actions they are required to take at different stages of the process.**

Comprehensive guidance will ensure the complaints process run by Faculty can be navigated by a complainer without legal representation, and be easily understood by

all parties. We hope this will include information about the different roles Faculty may play during consideration of a conduct complaint. We understand the development of guidance for complainers is reliant on the Disciplinary Rules being approved, but we anticipate the guidance being finalised promptly.

Faculty have published Guidance on the Tribunal process and Social Media Guidance for Advocates on its website. Several additional documents remain in draft form and will be finalised alongside the Disciplinary Rules.

## Conclusions

The SLCC welcomes Faculty's commitment to improving its complaints process and its approach to implementation of both the Section 36 recommendations and our observations, as set out in its complaints project plan. However, it is clear that compliance with the recommendations is dependent on approval and publication of the new Disciplinary Rules. It is now 18 months since the SLCC made the Section 36 recommendations in our handling report. Until approval and publication of the Disciplinary Rules, neither complainers nor advocates complained about will benefit from the planned improvements.

Full compliance with the statutory recommendations will support Faculty to meet its aim of operating a professional disciplinary process that embodies the highest possible standards of quality, proportionality and fairness.

## Next Steps

We will monitor the progress of Faculty against the statutory recommendations at our quarterly meetings and when undertaking handling complaint investigations.

In June 2026, and each subsequent year until the recommendations are fully met, we would plan to publish update reports on the progress Faculty has made. To engage and support Faculty we will in May 2026 (and each subsequent May) seek a formal written update on progress, as part of an annual cycle of assurance.

With each update we will ask for evidence of work undertaken, any challenges with resources or competing priorities, and when Faculty predict the recommendations will be fully met. If there is no evidence of substantial progress, we may consider making further recommendations to assist Faculty.

## June 2025