



ADVOCATES DISCIPLINARY TRIBUNAL

Bing-smaghtee ny Leighderyn

Our reference:
Your reference:

PRIVATE AND CONFIDENTIAL

11 August 2017

Mr J Moore
Chief Executive
Isle of Man Law Society
c/o 27 Hope Street
Douglas
Isle of Man
IM1 1AR

Dear Sir

Advocates Disciplinary Tribunal

Please find enclosed herewith, for your information, a copy of The Advocates Disciplinary Rules 2017. These, together with the relevant forms, can also be viewed on the Tribunal's website as follows:
<https://www.gov.im/about-the-government/offices/the-general-registry/tribunals-service/tribunals/advocates-disciplinary-tribunal/>

Yours faithfully

Miss T C Brown
Clerk to the Advocates Disciplinary Tribunal

Enc

Tribunals Office

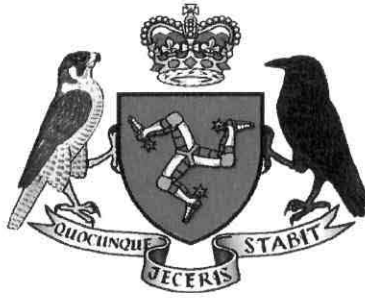
Isle of Man Courts of Justice
Deemster's Walk
Bucks Road
DOUGLAS
Isle of Man
IM1 3AR

Direct Line: (01624) 687502
Email: tribunals@gov.im

CHAIRMAN: PDL Scott

CLERK TO THE TRIBUNAL: Miss T C Brown

Isle of Man Law Society
14 AUG 2017



ADVOCATES ACT 1976 TO 1995

THE ADVOCATES DISCIPLINARY RULES 2017

Coming into operation: 01 September 2017

The Advocates Disciplinary Tribunal makes these Rules under section 16(2) of the Advocates Act 1976, and of all other powers enabling it in that behalf:-

1. **Title**

The title of these rules is The Advocates Disciplinary Rules 2017.

2. **Interpretation**

In these Rules –

“**the Act**” means the Advocates Act 1976 as amended;

“**Advocate**” means a person qualified under section 7 of the Act;

“**Chairman**” means the Chairman of the Tribunal;

“**Clerk**” means the clerk to the Tribunal;

“**Complainant**” means a person making a Complaint;

“**Complaint**” means a Complaint to the Tribunal under section 4, 6 or 17 of the Act in respect of an Advocate’s professional conduct;

“**Council**” means the Council of the Isle of Man Law Society;

“**Decision**” means the final decision of the Tribunal on a Complaint, including the reasons therefore;

“**Meeting**” means a meeting or sitting of the Tribunal;

“**Registered Legal Practitioner**” means a person registered under the Legal Practitioners Registration Act 1986”

"Senior Member" means the Member of the Tribunal, other than the Chairman, who has been a member of it for the longest continuous period to date; if two or more members have been in office for periods of equal length, it means the one of them whose surname comes first in alphabetical order;

"Tribunal" means the Advocates Disciplinary Tribunal established under section 15A of the Act.

3. **Complaints**

- (a) Any person wishing to make a Complaint against an Advocate or a Registered Legal Practitioner (**"the Respondent"**) shall make the Complaint in writing to the Tribunal using Form 1 in the Schedule hereto. Form 1 shall be signed by the Complainant (or by an officer of a Complainant which is not an individual) and sent to the Clerk together with seven copies.
- (b) Within seven days of receipt of each Complaint the Clerk shall in accordance with Section 17(2) of the Act send a copy of it to the Council.
- (c) Within seven days of receipt of a Complaint the Clerk shall send a copy of it to the Respondent.
- (d) Save in exceptional circumstances the Tribunal will not consider a Complaint made against an Advocate not representing the Complainant.
- (e) A Complaint must be made against an Advocate and not a firm or partnership.
- (f) Save in exceptional circumstances the Tribunal will not consider Complaints arising from events or circumstances arising more than 6 years before the date of the Complaint.

4. **Procedure**

- (a) At the next available Meeting of the Tribunal after receipt by the Clerk of a Complaint (and in any case not more than six weeks after such receipt) the Tribunal shall give Preliminary Consideration (**"Preliminary Consideration"**) to the Complaint.
- (b) If on Preliminary Consideration the Tribunal is of the opinion that the Complaint shows no *prima facie* case it shall thereupon dismiss it. The Tribunal shall set down briefly in writing its reasons (**"the Summary Dismissal Reasons"**) for so doing. The Clerk shall forthwith send a copy of the Summary Dismissal Reasons to the Complainant, the Respondent and the Council.
- (c) If on Preliminary Consideration the Tribunal is of the opinion that the Complaint is unclear or is not pleaded with sufficient precision for the Respondent reasonably to be able to understand and answer the

matters complained of the Tribunal shall order the Complainant to file an Amended Complaint ("**the Amended Complaint**") by a specified date. Upon receipt of the Amended Complaint it shall be dealt with in accordance with Rules 3 (b), 3 (c) and 4 (a) as though it were a new Complaint and the original Complaint shall be deemed to have been dismissed.

- (d) If on Preliminary Consideration the Tribunal is of the opinion that the Complaint shows or parts of the Complaint show a prima facie case it shall order the Respondent to respond in writing (in the form of a pleading) to the Complaint or to part of the Complaint ("**Answer**").
- (e) If on the filing of the Answer the Tribunal is of the opinion that taking into account the submissions made in the Answer that the Complaint is bound to fail, it shall have the power to dismiss the Complaint. The Tribunal shall set down briefly in writing its reasons ("**the Dismissal Reasons**") for so doing. The Clerk shall forthwith send a copy of the Dismissal Reasons to the Complainant, the Respondent and the Council.
- (f) The Tribunal shall in all cases have power to make such Directions ("**Directions**") for the management of the Complaint as the Tribunal shall consider proper, which may include:
 - (i) a date by which the Complainant shall provide further particulars of anything he alleges or documentary evidence.
 - (ii) a date by which the Respondent shall file documentary evidence.
 - (iii) a date by which the Complainant shall respond in writing (in the form of a pleading) to the Answer ("**Reply**").
 - (iv) a date for an interlocutory hearing of a preliminary point or other interlocutory matter.
 - (v) a date for the final hearing of the Complaint.
- (g) The Tribunal may make Directions on more than one occasion.
- (h) The Tribunal may set aside or vary any Direction made and issue a new or amended Direction in place of an earlier Direction.
- (i) All pleadings and documents filed in accordance with any Directions shall be accompanied by seven copies of each and shall be suitably paginated and tabulated.
- (j) Upon receipt of any pleading or document filed in accordance with any Directions the Clerk shall forthwith send a copy to the party who has not filed it.

5. Applications

- (a) Any party may at any time make an application (an "**Application**") in Form 2 of the Schedule hereto seeking Directions from the Tribunal on any relevant matter, including (but not restricted to) (1) amendment of pleadings, (2) filing of further documents or pleadings, (3) extensions of time limits set in Directions (4) a strike out of the Complaint or (5) an order that another party files a document or pleading.
- (b) Every Application shall be accompanied by seven copies of it.
- (c) Upon receipt of an Application the Clerk shall forthwith inform the Chairman (or in his absence, the Senior Member) who shall direct either:
 - (i) that the Application be heard, or
 - (ii) that the Clerk send to the other parties a copy of the Application together with a notice in Form 3 of the Schedule hereto requiring such other party to respond to or comment on it within such time limit ("**the Time Limit**") as shall be specified in the Form 3 (such response or comments being referred to as the "**Response to the Application**"), and that the Application be heard after the expiry of the Time Limit.
- (d) The Tribunal shall thereupon consider the Application and any Response to the Application, and may:
 - (i) without any hearing dismiss it
 - (ii) without any hearing give Directions on it
 - (iii) without any hearing grant the Application, subject to any conditions it thinks fit
 - (iv) set down an Interlocutory Hearing (an "**Interlocutory Hearing**") to hear the Application.
- (e) All parties shall be given such notice as the Tribunal shall direct of any Interlocutory Hearing.
- (f) At the conclusion of an Interlocutory Hearing the Tribunal shall either:
 - (i) dismiss the Application, or
 - (ii) grant the Application, subject to such conditions as the Tribunal thinks fit.
- (g) The Chairman may acting alone extend the Time Limit provided in any Direction.

6. **Sub Judice Stays**

If at any time the Tribunal is of the opinion that a Complaint cannot in the interests of justice be determined until the conclusion of proceedings before any court or tribunal (including the delivery of reasons for judgment), it may, after taking into account the representations (if any) of the parties, direct that the Complaint be stayed until the conclusion of such proceedings (a "**Sub Judice Stay**"). The Clerk shall forthwith send a copy of the Sub Judice Stay to the Council and to the clerk to the court or tribunal in which such proceedings are ongoing.

7. **Appearances**

- (a) Any party shall be entitled to appear and be heard at a Hearing or an Interlocutory Hearing either in person or by an Advocate.
- (b) If any party fails to appear at a Hearing or Interlocutory Hearing, the Tribunal may, upon being satisfied that such party had due notice, proceed with the Hearing or Interlocutory Hearing in his absence though not represented.

8. **Witnesses**

- (a) Witnesses, including any party offering himself as a witness, shall at a Hearing or Interlocutory Hearing be sworn and subject to examination, cross-examination and re-examination as nearly as may be as if they were witnesses in a civil action.
- (b) No party shall be at liberty to adduce or call expert evidence without the prior leave of the Tribunal, leave for which shall be made in an Application.

9. **Hearing**

- (a) All parties shall be given such notice as the Tribunal shall direct of the Hearing.
- (b) In the event of the Complainant not appearing or being represented at the Hearing, the Tribunal may dismiss the Complaint.
- (c) In the event of the Respondent not appearing or being represented at the Hearing, the Tribunal may proceed to hear the Complaint in the absence of the Respondent.
- (d) After the Complainant has made and closed his case to the Tribunal, the Respondent shall be entitled to make a submission of no case to answer and the Tribunal may, if it considers that the Complainant has failed to prove the Complaint, dismiss the Complaint at that stage.

10. **Decisions**

- (a) All Decisions made by the Tribunal shall be signed by the Chairman and filed in the Probate and Tribunals Office of the General Registry.
- (b) A copy of each Decision shall be sent by the Clerk to each party to the Complaint.

11. **Summaries**

- (a) If the Complaint is proved and there is no reference for a re-hearing under Section 19 of the Act, then pursuant to section 18 (3A) of the Act, the Tribunal shall prepare a summary of the facts and the punishment imposed ("**the Summary**"). The Summary shall not identify the Complainant.
- (b) The Clerk shall send a copy of the Summary to the Council, together with the name of the Complainant.
- (c) The Clerk shall cause the Summary to be put up on the Tribunal's website, and shall send copies to the Isle of Man Office of Fair Trading and to such media outlets as the Tribunal shall direct.
- (d) A copy of every Summary shall be open to public inspection. No pleadings or other records of the Tribunal shall be open to public inspection without the written leave of the Tribunal.

12. **Meetings**

- (a) The Tribunal shall meet from time to time on dates fixed by the Chairman after consultation with the other Members. A Meeting shall be in accordance with the quorum provisions of Section 15 (4) of the Act. The Tribunal may meet with one or more Members appearing by telephone.
- (b) The Tribunal may adjourn any Meeting as it thinks fit.
- (c) Meetings and Interlocutory Hearings shall be open only to such persons, in addition to the parties, as the Tribunal may direct.

13. **Costs Complaints**

- (a) In the event of a referral ("**the Referral**") being made to the Tribunal pursuant to Rule 11.38 of the Rules of the High Court of Justice 2009 ("**the High Court Rules**"), then the Tribunal:-
 - (i) will consider the Referral to be a complaint ("**a Costs Complaint**") in accordance with section 17 of the Act; and
 - (ii) will consider the Referral to be factually correct in the event of there having been no appeal by either party to the assessment ("**Assessment**") made pursuant to Rule 11.39 of the High Court Rules; and

- (iii) for the purposes of a Costs Complaint the Advocate who submitted the Assessment shall be the Respondent; and
 - (iv) will determine whether or not the Assessment having allowed less than half of the total amount of the Respondent's charges claimed is firstly capable of amounting to professional misconduct on the part of the Respondent and secondly does or does not actually amount to professional misconduct on the part of the Respondent.
- (b) The Tribunal shall then give directions in accordance with Rule 4.
 - (c) In all other respects the provisions of these Rules shall apply to a Costs Complaint.

14. Saving

Save in so far as the same is provided by the Act, the Tribunal may dispense with any requirement of the Rules respecting notices, documents, service, or time, in any case where it appears to the Tribunal to be just so to do.

15. Signing

Any order, notice or document required to be given or signed on behalf of the Tribunal (except a Decision or a Summary Dismissal Reasons or a Dismissal Reasons) may be signed by the Clerk.

16. Forms

The forms in the Schedule to these Rules shall be used in all cases as far as practicable, but a deviation from those forms shall not, by reason only of such deviation, render any Complaint or other document or proceedings invalid.

17. Withdrawal

When a Complaint has once been lodged it shall not be withdrawn before a final determination has been made except by the leave of the Tribunal. Once a final determination has been made the Complaint may not be withdrawn except by direction of the Governor.

18. Custody of Documents

The originals of all documents and electronic recordings in proceedings under these Rules shall be filed in the Probate and Tribunals Office of the General Registry.

19. Tribunal's Discretion

The Tribunal shall deal with any matters not provided for in these Rules in such manner as the Tribunal considers most appropriate to the circumstances of the case.

20. **Repeal**

The Advocates Disciplinary Rules 2012 (Statutory Document 0697/12) are hereby revoked.

Made at a meeting of the Tribunal this 14th day of July 2017.



Chairman

Price £2.00
Price Band A

Tribunal Reference Number

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ADVOCATES DISCIPLINARY TRIBUNAL

FORM 1

COMPLAINT

Please complete electronically and print off, or print off and complete in block capitals.

Name of Complainant:	
Address of Complainant:	
Email address:	

Name of Advocate about whom you wish to complain NB: Your complaint has to be against an individual and cannot be against a firm or company.	
Address of Advocate:	

Details of Complaint: Complaints can be made to the Advocates Disciplinary Tribunal only 'in respect of [an] advocate's professional conduct' (Advocates Act 1976, section 17(1)). Please summarise what professional conduct by the Advocate you wish to complain about:

Please summarise why you consider that conduct to be wrong or unprofessional:

Were (or are) you a client of the Advocate? If so, for what period?

On a separate sheet of paper, please set out your complaint. You should number each page at the top right, and also number each paragraph.

Please state how many pages you are attaching?

If you wish to rely on any documents at the hearing, you should attach them too, in a file with the pages numbered at the bottom.

Please state how many pages you are attaching?

Signed:

Date:

Please send the original signed copy and 6 (six) copies thereof to :

**The Clerk to the Advocates Disciplinary Tribunal
Isle of Man Courts of Justice
Deemsters Walk
Bucks Road
Douglas
Isle of Man IM1 3AR**

ADVOCATES DISCIPLINARY TRIBUNAL

FORM 2

APPLICATION

Please complete electronically and print off, or print off and complete in block capitals.

Name of Complainant:

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Name of Advocate:

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Rule 5(a) of the Advocates Disciplinary Rules 2012 states: 'Any party may at any time up until a date [four] weeks before that set for the Hearing make an application seeking Directions from the Tribunal on any relevant matter, including (but not restricted to) amendment of pleadings, filing of further documents or pleadings, extensions of time limits set in Directions or an order that another party files a document or pleading'.

What application do you wish to make?

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Please summarise the reasons for the application:

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Please continue on a separate sheet of paper if necessary, numbering each page at the top right and also numbering each paragraph.

How many pages are you attaching?	
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If you wish to rely on any documents at the hearing of this application (not the main hearing), you should attach them too, in a file with the pages numbered at the bottom.

How many pages are you attaching?	
--	--

Signed:

Date:

Please send the original signed copy and 6 (six) copies thereof to :

**The Clerk to the Advocates Disciplinary Tribunal
Isle of Man Courts of Justice
Deemsters Walk
Bucks Road
Douglas
Isle of Man
IM1 3AR**