
STATUTORY INSTRUMENTS

2019 No. 1185

The Solicitors (Disciplinary Proceedings) Rules 2019

PART 1

Introductory

Citation and commencement

1. These Rules may be cited as the Solicitors (Disciplinary Proceedings) Rules 2019 and come into force on 25th November 2019.

Scope

2. These Rules apply to—

- (a) any application made to the Tribunal under any enactment, including the following provisions of the 1974 Act—
 - (i) section 43(1) (applications relating to the control of solicitors' employees and consultants);
 - (ii) section 43(3) (applications for review of orders made in respect of applications under section 43(1));
 - (iii) section 43(4) (applications for costs in relation to applications under section 43);
 - (iv) section 47(1)(a) to (f) (applications in relation to solicitors and former solicitors);
- (b) any complaint made to the Tribunal under any enactment, including the following—
 - (i) section 43 of the Administration of Justice Act 1985 (legal aid complaints relating to solicitors);
 - (ii) section 31(2) of the 1974 Act (complaints in respect of failure to comply with rules as to professional practice, conduct and discipline);
 - (iii) section 32(3) of the 1974 Act (complaint in respect of failure to comply with accounts rules and trust accounts rules);
 - (iv) section 34(6) of the 1974 Act (complaint in respect of failure by solicitor to comply with rules relating to accountants' reports);
 - (v) section 34A(2) of the 1974 Act (complaint in respect of failure by employee of solicitor to comply with rules relating to professional practice, conduct and discipline);
 - (vi) section 34A(3) of the 1974 Act (complaint in respect of failure by employee of solicitor to comply with rules relating to accountants' reports);
 - (vii) section 37(4) of the 1974 Act (complaint in respect of failure by solicitor to comply with indemnity rules);
 - (viii) section 44(2) of the 1974 Act (complaint in respect of contravention of order under section 43(2) in respect of solicitors' employees and consultants).

Interpretation**3.—(1)** In these Rules—

“the 1974 Act” means the Solicitors Act 1974;

“the 2007 Act” means the Legal Services Act 2007(1);

“applicant” means a person making an application;

“application” means an application or complaint to which these Rules apply and which is made in accordance with these Rules;

“prescribed form” means the appropriate form published by the Tribunal on its website;

“authorised body” means—

(a) a body which holds a licence in force under Part 5 of the 2007 Act granted by the Solicitors Regulation Authority;

(b) a recognised body under section 9 of the Administration of Justice Act 1985(2);

(c) a sole solicitor’s practice recognised under section 9 of the Administration of Justice Act 1985;

“business day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(3);

“case to answer” means an arguable case;

“clerk” means any clerk appointed under rules 8(1) and (2);

“the Clerk to the Tribunal” means the Clerk to the Tribunal who is in office at the date these Rules come into force, or the Clerk to the Tribunal subsequently appointed under rule 8(1);

“a lay application” means an application other than one—

(d) made by the Society; or

(e) to which Chapter 2 of Part 3 of these Rules applies;

“panel” means a panel appointed under rule 9(1) for the hearing of an application or any matter connected with an application;

“party” means an applicant or respondent;

“practice direction” means a direction made under rule 6(3);

“practice notice” means a notice made under rule 6(3);

“the President” means the President of the Tribunal, elected under rule 7(2);

“respondent” means any party to an application other than the applicant;

“the Society” means the Law Society and includes any duly constituted committee of the Law Society or any body or person exercising delegated powers of the Law Society, including the Solicitors Regulation Authority;

“solicitor members” and “lay members” have the same meaning as in section 46 of the 1974 Act (4);

(1) 2007 c.29.

(2) 1985 c.61. Section 9 was amended by the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119), Schedule 4, paragraph 15(2); the Legal Services Act 2007 (c. 29), Schedule 16(2), paragraph 81(2), (3) and (4) and Schedule 23, paragraph 1 and the Legal Services Act 2007 (The Law Society) (Modification of Functions) Order (S.I. 2015/401), Schedule 1(2) paragraphs 18(3), (4) and (5).

(3) 1971 c.80.

(4) Section 46 was amended by the Legal Services Act 2007 (c. 29), Schedule 16(1), paragraph 47(2) and modified by the Solicitors Act 1974 (c. 47), section 44E(2), the Administration of Justice Act 1985 (c. 61), section 43(2)(a) and Schedule 2, paragraph 14C(2), the European Communities (Lawyer’s Practice) Regulations 2000 (2000/1119), Schedule 4, paragraph 10

“Statement” means a written statement (including a witness statement) signed by the individual making the statement and containing a declaration of truth in the following form—

“I believe that the facts and matters stated in this statement are true”;

“the Tribunal” means the Solicitors Disciplinary Tribunal and where a panel has been appointed for the hearing of an application or any matter connected with it, includes a panel;

“Vice President” means a Vice President of the Tribunal, elected under rule 7(3).

(2) References in these Rules to solicitors include, where appropriate, former solicitors.

(3) References in these Rules to registered foreign lawyers are references to lawyers whose names are entered in the register of foreign lawyers maintained under section 89 of the Courts and Legal Services Act 1990(5) and include, where appropriate, those who have ceased to be registered in that register or whose registration has been suspended.

(4) Subject to paragraph (5), references in these Rules to registered European lawyers are references to—

(a) those lawyers—

(i) whose names were entered in the register of registered European lawyers maintained by the Society under regulation 15 of the European Communities (Lawyer’s Practice) Regulations 2000(6), as it had effect immediately before exit day, at a time before exit day, but

(ii) in relation to whom regulation 5 or 5A of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019 does not apply;

(b) those lawyers whose names are entered in the register of registered European lawyers maintained by the Society under regulation 15 of the European Communities (Lawyer’s Practice) Regulations 2000, as that regulation has effect by virtue of regulation 5 or 5A of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2019(7) and includes, where appropriate, those who have ceased to be registered in that register or whose registration has been suspended.

(5) During any period when these Rules are in force before exit day, references in these Rules to registered European lawyers are references to lawyers whose names are entered in the register of European lawyers maintained by the Society under regulation 15 of the European Communities (Lawyer’s Practice) Regulations 2000(8) and include, where appropriate, those who have ceased to be registered in that register or whose registration has been suspended.

The overriding objective

4.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases justly and at proportionate cost.

(2) The Tribunal will seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(3) Dealing with a case justly and at proportionate cost includes, so far as is practicable—

(a) ensuring that the parties are on an equal footing;

and the Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011 (2011/2863), articles 4(3) and (4).

(5) Section 89 was amended by the European Communities (Lawyer’s Practice) Regulations 2000 (2000/1119), Schedule 4, paragraph 14(2) and the Legal Services Act 2007 (c. 29), Schedule 16(3), paragraph 125.

(6) S.I. 2000/1119.

(7) S.I. 2019/375.

(8) S.I. 2000/1119.

- (b) ensuring that the case is dealt with efficiently and expeditiously;
 - (c) saving expense;
 - (d) dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues.
- (4) The parties are required to help the Tribunal to further the overriding objective set out above.

Standard of proof

5. The standard of proof that will be applied to proceedings considered under these Rules is the standard applicable in civil proceedings.

Regulation of procedure and practice directions

6.—(1) Subject to the provisions of the 1974 Act, these Rules and any other enactment, the Tribunal may regulate its own procedure.

(2) The Tribunal may dispense with any requirements of these Rules in respect of notices, Statements, witnesses, service or time in any case where it appears to the Tribunal to be just so to do.

(3) The Tribunal (or a panel of Tribunal members consisting of no fewer than five members of whom no fewer than two must be lay members) may give such notices or make such directions concerning the practices or procedures of the Tribunal as are consistent with these Rules and as the panel considers appropriate.

(4) Practice notices and practice directions may be promulgated under the authority of the President.