
STATUTORY INSTRUMENTS

2019 No. 1185

The Solicitors (Disciplinary Proceedings) Rules 2019

PART 3

Applications

CHAPTER 1

Applications by the Law Society and lay applications

Application of Rules in Chapter 1

- 11.**—(1) Rules 12, 13 and 14 apply to applications made by the Society and to lay applications.
(2) Rule 15 applies to applications made by the Society.
(3) Rule 16 applies to lay applications.

Method and form of application

12.—(1) An application to which this Rule applies must be sent to the Tribunal offices and must be made using the prescribed form.

(2) The application must be supported by a Statement setting out the allegations, the facts and matters supporting the application and each allegation contained within it and exhibiting any documents relied upon by the applicant.

- (3) In the case of an application made by the Society, the application must be accompanied by—
- (a) sufficient copies of the application and supporting documents to enable the Tribunal to retain one complete set and to serve one complete set on each respondent;
 - (b) a time estimate for the substantive hearing;
 - (c) a schedule of the Society's costs incurred up to and including the date on which the application is made.

(4) In the case of a lay application, the application must be accompanied by three copies of the application and supporting documents and one further copy for any second and each further respondent.

Certification of case to answer

13.—(1) An application made in accordance with rule 12 must initially be considered by a solicitor member ("the initial solicitor member") for consideration of the question of whether there is a case to answer in respect of the allegations made in the application.

(2) If the initial solicitor member considers that there is a case to answer in respect of all the allegations made and is not of the opinion that the question is one of doubt or difficulty then the initial solicitor member must certify that there is a case to answer.

(3) If the initial solicitor member is minded not to certify that there is a case to answer in respect of all or some of the allegations made or is of the opinion that the question is one of doubt or difficulty, the question must be considered by a panel of three members of the Tribunal, two of whom must be solicitor members and one of whom must be a lay member. The initial solicitor member may be a member of the panel. If the panel considers that there is a case to answer in respect of any of the allegations made then it must certify that there is a case to answer in respect of those allegations.

(4) If the panel decides that there is no case to answer in respect of any of the allegations made, it may refuse or dismiss the application, or part of it, without requiring the respondent to answer the allegations and without hearing the applicant. The applicant must be provided with written reasons explaining the decision.

(5) If a panel or solicitor member certifies that a case to answer is established in respect of all or any of the allegations made, a clerk must serve a copy of each of the documents referred to in rule 12(3) or (4), as the case may be, on each respondent.

Supplementary Statements

14.—(1) An applicant who has made an application to which this Rule applies may, subject to paragraph (4), send supplementary statements to the Tribunal containing additional facts or matters on which the applicant seeks to rely or further allegations in support of the application.

(2) A supplementary statement must be supported by a Statement setting out any new allegations, facts and matters supporting the application and each allegation contained within it and exhibiting any new documents relied upon by the applicant.

(3) In the case of an application made by the Society, when a supplementary statement is sent to the Tribunal, the Society must provide—

- (a) sufficient copies of the supplementary statement and supporting documents to enable the Tribunal to retain one complete set and to serve a complete set on each respondent;
- (b) a revised time estimate for the substantive hearing;
- (c) a revised schedule of the Society's costs incurred up to and including the date on which the supplementary statement is sent;
- (d) any proposed directions for the future progression of the case, including any proposals to vary any existing directions.

(4) In the case of a lay application, when a supplementary statement is sent to the Tribunal, the applicant must provide sufficient copies of the supplementary statement and supporting documents to enable the Tribunal to retain one complete set and to serve a complete set on each respondent.

(5) The applicant will not be permitted to send a supplementary statement without leave of the Tribunal—

- (a) more than 12 months from the date of the application under rule 12;
- (b) less than 30 days before the date fixed for the substantive hearing of the application.

(6) Rule 13 applies in respect of any supplementary statement containing additional facts or matters on which the applicant seeks to rely or further allegations in support of the application as it applies to an application made in accordance with rule 12.

Applications in respect of solicitors' employees

15. In a case where an application is made for an order under section 43(2) of the 1974 Act, the solicitor, recognised body, registered European lawyer or registered foreign lawyer by or for whose benefit the respondent is employed or remunerated—

- (a) may also be named or joined as a respondent to the application; and

- (b) must be joined as a respondent to the application if the Tribunal so directs.

Adjournment of application pending Law Society investigation

16.—(1) The panel may adjourn the consideration of the question of whether to certify any application to which this Rule applies for an initial period of up to three months to enable the Society to carry out its own investigations and consider whether to—

- (a) initiate its own application; or
(b) by agreement with the applicant, take over conduct of the application.

(2) After the expiration of the initial adjournment period, the application may be referred to a panel on the first available date for further review and consideration, subject to the provisions of paragraph (3).

(3) If at the expiration of the period specified by the Tribunal under paragraph (1) the Society has not made a decision as to whether to initiate or take over the conduct of an application, the Tribunal may adjourn the matter for a further period of up to three months, after which the application must be referred to a panel on the first available date for further review and consideration.

CHAPTER 2

Applications by solicitors, etc.

Applications for restoration and termination of indefinite suspension

17.—(1) This Rule applies to applications made to the Tribunal under section 47 of the Act by—

- (a) a former solicitor seeking restoration to the Roll of Solicitors kept by the Society under section 6 the 1974 Act⁽¹⁾;
(b) a person seeking restoration to the register of European lawyers or the register of foreign lawyers if his name has been withdrawn or removed from either register by the Tribunal;
(c) a solicitor, registered European lawyer or registered foreign lawyer seeking the termination of an indefinite period of suspension from practice imposed by the Tribunal.

(2) An application to which this Rule applies must be sent to the Tribunal and must be made using the prescribed form.

(3) The application must be supported by a Statement setting out the facts and matters supporting the application and exhibiting any documents relied upon by the applicant.

(4) The Society must be a respondent to any application to which this Rule applies.

(5) The applicant must serve on the Society-

- (a) a copy of the application; and
(b) a Statement in support of the application.

(6) Every application to which this Rule applies must be advertised by the applicant in the Law Society's Gazette and in a newspaper circulating in the area of the applicant's former practice (if available) and must also be advertised by the Tribunal on its website.

(7) Any person may, no later than 21 days before the hearing date of an application to which this Rule applies, serve on the Tribunal and the parties to the application notice of that person's intention to oppose the allowing of the application and the Tribunal may allow the person to appear before it at the hearing of the application, call evidence and make representations upon which the Tribunal may allow the person to be cross-examined.

(1) Section 6 was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 11(4), paragraph 21(2) and the Legal Services Act 2007 (c. 29), Schedule 23, paragraph 1.

Application to vary or remove conditions on practice

18.—(1) This Rule applies to applications made to the Tribunal to vary or remove conditions on practice imposed by the Tribunal.

(2) An application to which this Rule applies must be sent to the Tribunal and must be made using the prescribed form.

(3) The application must be supported by a Statement setting out the facts and matters supporting the application and exhibiting any documents relied upon by the applicant.

(4) The Society must be a respondent to any application to which this Rule applies.

Application for review of order relating to solicitors' employees and consultants

19.—(1) An application for a review of an order made under section 43(3)(a) of the 1974 Act must be sent to the Tribunal and must be made using the prescribed form.

(2) The application must be supported by a Statement setting out the facts and matters supporting the application and exhibiting any documents relied upon by the applicant.

(3) An application under section 43(3)(a) of the 1974 Act must be served on the Society and the Society must, within 28 days of the service of the application, send a Statement to the Tribunal setting out the facts and matters on which it relied in making the order under section 43(2) of the 1974 Act.