
STATUTORY INSTRUMENTS

2019 No. 1185

The Solicitors (Disciplinary Proceedings) Rules 2019

PART 4

CASE MANAGEMENT

Standard Directions

20.—(1) Following certification of a case to answer under rule 13, standard directions must be issued by a clerk and sent to the parties.

(2) The standard directions may specify—

- (a) the date fixed for the substantive hearing of the matter;
- (b) the date by which a respondent must send to the Tribunal and serve on every other party an Answer to the allegations contained in the Statement served under rules 12 and 14 and a reply to the application and Statement served under rules 17, 18 and 19;
- (c) the date by which the respondent must send to the Tribunal and serve on every other party all documents on which the respondent intends to rely at the substantive hearing;
- (d) the date by which the parties must send to the Tribunal and serve on every other party a list of witnesses upon whose evidence they intend to rely at the substantive hearing;
- (e) the date by which the parties must notify the Tribunal of any intention to rely on expert evidence;
- (f) the date on which any case management hearing will take place;
- (g) the date by which the parties must send a statement of readiness to the Tribunal;
- (h) the date by which hearing bundles (and the number of copies) must be sent to the Tribunal;
- (i) any other standard direction which the Tribunal considers appropriate to ensure the management of matters in accordance with the overriding objective of these Rules mentioned in rule 4.

(3) If a party fails to comply with the standard directions, any other direction or any of these Rules, the matter may be listed for a non-compliance hearing before a clerk, who will make appropriate directions, which may include listing the matter before the Tribunal which may direct that—

- (a) evidence which has not been sent or served as directed may not be relied upon without permission of the Tribunal;
- (b) an adverse costs order be made in default of compliance, which may be ordered to be paid immediately to any other party;
- (c) adverse inferences that the panel hearing the matter considers appropriate may be drawn at the substantive hearing from the failure to comply.

(4) In this rule—

- (a) an “Answer” is a document which sets out—
 - (i) which allegations in the Statement are admitted and which are denied; and

- (ii) the reasons for denial;
- (b) a “statement of readiness” is a document—
 - (i) confirming that the parties are ready for the substantive hearing;
 - (ii) setting out what, if any, further directions are required by the parties; and
 - (iii) setting out whether the time estimate for the final hearing is the same as was anticipated when standard directions were issued or at any subsequent case management hearing, or otherwise providing a revised time estimate.

Case management hearings

- 21.**—(1) A case management hearing must be arranged by the Tribunal or a clerk in cases where—
- (a) a clerk considers that the holding of a case management hearing is justified by reason of the time estimate or revised time estimate provided by the Society under rule 12(3)(b) or 14(3)(b); or
 - (b) the clerk who reviews the application on receipt identifies issues which in the opinion of the clerk justify the holding of a case management hearing.
- (2) A case management hearing may be arranged by the Tribunal or a clerk at any other time before the hearing of an application.
- (3) A case management hearing may be heard by the Tribunal or a clerk and may take place by telephone, in person, or by such electronic means as may be approved by the Tribunal.
- (4) If the Tribunal notifies the parties in advance of a case management hearing that a further hearing is to be fixed or is likely to be fixed at the case management hearing, the parties must attend the case management hearing equipped with their dates to avoid and the dates to avoid of any witnesses.
- (5) If on receipt of a list of witnesses (see rule 20(2)(d)) or a statement of readiness (see rule 20(2)(g)) a clerk considers that a further case management hearing is required, a further case management hearing date may be fixed so that any further directions can be made.

Procedural applications

- 22.**—(1) Any procedural application must be—
- (a) made using the prescribed form; and
 - (b) sent to the Tribunal and served on every other party, together with any relevant supporting documentation.
- (2) The Tribunal, single solicitor member or clerk must issue written reasons for its decisions on procedural applications.
- (3) Any party aggrieved by a decision of a clerk under paragraph 8(6) may request that the application be re-determined by a panel or single solicitor member by notifying the Tribunal of this request within 14 days of receipt of the written reasons for the decision.
- (4) In this rule, a “procedural application” means an application for—
- (a) a variation of directions;
 - (b) an adjournment of the hearing of an application (see rule 23);
 - (c) an amendment or withdrawal of an allegation (see rule 24);
 - (d) disclosure and discovery (see rule 26);
 - (e) leave to call or adduce expert evidence (see rule 30);

- (f) a direction that special measures may be provided or used to assist vulnerable witnesses or respondents;
- (g) a direction that a witness or respondent may give their evidence or otherwise participate in the proceedings by videolink or other electronic means;
- (h) any other procedural application, including an application for a stay of proceedings for abuse of process, and general applications to exclude or adduce evidence.

Adjournments

23.—(1) An application for an adjournment of the hearing of an application must be supported by documentary evidence of the need for the adjournment.

(2) An application for an adjournment made more than 21 days before the hearing date will be considered by a clerk or a single solicitor member on the papers.

(3) An application for an adjournment made 21 days or less before the hearing date will be considered by the panel listed to sit on the substantive hearing on the papers unless it is in the interests of justice for the matter to be dealt with at an oral hearing.

Amendment or withdrawal of allegations

24. No allegation made in an application may be amended or withdrawn without leave of the Tribunal.

Agreed Outcome Proposals

25.—(1) The parties may up to 28 days before the substantive hearing of an application (unless the Tribunal directs otherwise) submit to the Tribunal an Agreed Outcome Proposal for approval by the Tribunal.

(2) An Agreed Outcome Proposal must—

- (a) contain a statement of the facts that are agreed between the relevant parties;
- (b) set out the agreed proposed penalty and an explanation as to why the penalty would be in accordance with any guidance published by the Tribunal on sanctions imposed by the Tribunal;
- (c) be signed by the relevant parties; and
- (d) comply with any relevant practice direction made by the Tribunal in respect of Agreed Outcome Proposals.

(3) If the Tribunal approves the Agreed Outcome Proposal in the terms proposed it must make an Order in those terms. The case must be called into an open hearing and the Tribunal must announce its decision.

(4) If the Tribunal wishes to hear from the parties before making its decision the Tribunal may direct that there be a case management hearing which the parties to the proposed Agreed Outcome Proposal must attend for the purpose of making submissions before a final decision is reached. The case management hearing must be heard in private.

(5) Where the Tribunal is not satisfied that it is appropriate to make an Order in accordance with paragraph (3) it must provide reasons to the parties who may then submit a revised proposal. If the Tribunal is satisfied with the revised proposal, it must make an Order in accordance with it.

(6) Some or all of the same members of the panel appointed in respect of the application may consider the initial Agreed Outcome Proposal, any submissions made at a case management hearing and any revised proposal but may not subsequently participate in the panel for the substantive hearing (if there is one).

(7) If on considering a submission under this rule the Tribunal decides not to make an Order in accordance with paragraph (3) it must make directions for the substantive disposal of the matter by a panel consisting of members who were not on the panel which considered the submission.

(8) If on considering a submission under this rule the Tribunal decides not to make an Order and the Tribunal does not publish that decision or announce it in an open hearing, no information will be published or announced about the submission save that the Agreed Outcome Proposal was not approved.

Disclosure and discovery

26.—(1) If an application is made for the disclosure or discovery of material, the Tribunal may make an order that material be disclosed where it considers that the production of the material is necessary for the proper consideration of an issue in the case, unless the Tribunal considers that there are compelling reasons in the public interest not to order the disclosure.

(2) Any order made by the Tribunal will only apply to material that is in the possession or under the control of a party.

(3) An order made under paragraph (1) will not oblige the parties to produce any material which they would be entitled to refuse to produce in proceedings in any court in England and Wales.

(4) A party to proceedings before the Tribunal is required to disclose only—

- (a) the documents on which the party relies;
- (b) any documents which –
 - (i) adversely affect that party’s own case;
 - (ii) adversely affect another party’s case; or
 - (iii) support another party’s case; and
- (c) any documents which the party is required to disclose by a relevant practice direction.