

ISLE OF MAN LAW SOCIETY

CONCILIATION RULES 2010

1. The Law Society exercises both Conciliation and Disciplinary functions to try to resolve disputes between its members and members of the public/clients.
2. Only in respect of a dispute between two or more members does the Law Society have any power to impose punishment.
3. In all other cases the powers of the Society are limited to trying to assist advocates and members of the public/clients in dispute to resolve their differences on an informal basis without resort to the Advocates' Disciplinary Tribunal or litigation.
4. The Law Society's Conciliation and Disciplinary functions are delegated by the Council of the Isle of Man Law Society to its Conciliation Committee but any disciplinary decision or finding made by that Committee must be ratified by the full Council of the Isle of Man Law Society before becoming effective.
5. The Law Society can exercise its Conciliation jurisdiction in respect of three separate types of matter in each case its powers being to actively

try to resolve the differences to the satisfaction of both parties using normal mediation techniques

a) A complaint by one advocate against another where both advocates concerned agree to the conciliation process

b) A complaint or claim by a member of the public/client against an advocate

c) A referral of a complaint by the Advocates' Disciplinary Tribunal

6. Complaints under 5 (b) will normally only be dealt with by the Law Society if the member of the public/client has exhausted the advocate's own internal complaints procedure and either

a) the advocate has not dealt with the complaint internally adequately or at all or

b) The advocate has dealt with the complaint but the member of the public/client is not satisfied with the outcome.

7. Complainants seeking conciliation will be invited to fill out form A attached to these rules. Upon receipt by the Law Society of form A, a copy will be sent to the advocate complained of with a request that the advocate replies within fourteen days. The Conciliation Committee will consider the complaint and the reply and either make recommendations

to both parties to try and resolve the matter or seek further information. The Conciliation Committee will seek to review all documents submitted to it on any occasion and to make recommendations within fourteen days and expects a complainant and advocate to try and meet the same time limit whenever action is requested of them.

8. Upon the request of the advocate or complainant the Conciliation Committee may extend any time limit for such period as the Conciliation Committee considers reasonable in all the circumstances.
9. If the Conciliation Committee is of the opinion that conciliation can best be achieved by a face to face meeting between the advocate and the client it can invite both to a meeting to try and resolve the dispute. Such a meeting will be under the chairmanship of a member of the Conciliation Committee who will set the agenda and use his or her best endeavours to resolve the dispute.
10. In any matter being considered by it the Conciliation Committee may delegate the matter to one member of the Conciliation Committee to act as case worker in respect of that matter to try and resolve the dispute between the parties.

11. Where the Conciliation Committee or a member of it exercises the Conciliation jurisdiction, the process remains entirely confidential and no part of the communication between the parties and the Conciliation Committee can subsequently be utilised in the course of a formal complaint or Court proceedings. However where in the opinion of the Conciliation Committee the matter under consideration gives rise to concerns about serious professional misconduct on the part of an Advocate, the Conciliation Committee may recommend to the Council of the Law Society that such professional misconduct be investigated entirely afresh and referred to the Advocates' Disciplinary Tribunal. Where the efforts of the Conciliation Committee result in agreement between the parties, such agreement will normally be recorded in a brief memorandum to be signed by the parties, and this may or may not include confidentiality provisions.

12. This rule will apply where the matter under consideration by the Conciliation Committee is a complaint pursuant to paragraph 5 (b) of these Rules and the Conciliation Committee is satisfied that the issue raised is one of professional misconduct (rather than giving rise to a civil claim) and the conciliation process has failed to resolve matters to the

satisfaction of the client or member of the public who has made the complaint. In such a situation, the Conciliation Committee may call upon the Advocate against whom the complaint is made to release his/her file to the Conciliation Committee within 14 days upon loan and the Conciliation Committee will then investigate the complaint and make a recommendation as to any follow up action it may consider appropriate including a referral to the Advocates' Disciplinary Tribunal. The findings and recommendation of the Conciliation Committee in such a case will be recorded in writing and will be made available to both parties for use in any future proceedings relating to the same subject matter.

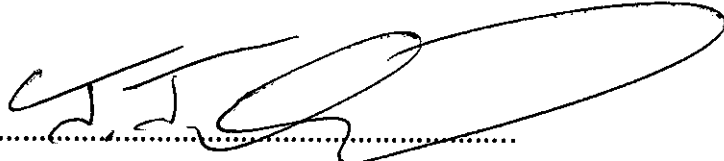
13. Where the Conciliation Committee is exercising the Law Society's Disciplinary function, Law Society 2001 Bye-Law 13 (as amended/replaced following any change in the Society's Bye-Laws) will apply. A Complainant Advocate will be invited to submit full details of the complaint by way of letter. Upon receipt by the Law Society of such letter, a copy will be sent to the Advocate complained of, with a request that that Advocate replies by letter within 21 days and provides the Law Society with the Advocate's file relating to the matter in question on

loan. The Conciliation Committee or a member of it will then consider the complaint and make recommendations to the Council of the Law Society

14. Any complaint against an Advocate will also be copied to the Senior Partner (or equivalent) of the relevant firm, whether the jurisdiction being invoked is that of conciliation or discipline.

15. There will be no charge for the services of the Conciliation Committee (or a member of it) pursuant to these Rules where the complaint is purely about professional standards or ethics. However, where the complaint is under rule 5 (b) and includes a financial claim, or a claim more appropriate for litigation the committee may offer the complainant the possibility of referring the matter to an outside mediator on a fee paying basis and may give the complainant details of mediators prepared to accept instructions under such circumstances: subject to no conflict of interest arising, such a mediator may happen to be a member of the Law Society's Conciliation Committee but will not be acting in such capacity.

Adopted by the Isle of Man Law Society Council by resolution this 18th May
2010 with effect from that date.



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a dotted line.