



Please note that these Guidance Notes are published by the Advocates Disciplinary Tribunal in respect of the 1997 Rules however, the Rules now in force are the Advocates Disciplinary Rules 2009. When an amended Guidance Note becomes available it will be posted on the Website.

The Advocates (Disciplinary) Rules 1997

ADVOCATES DISCIPLINARY TRIBUNAL GUIDANCE NOTES



THE ADVOCATES (DISCIPLINARY) RULES 1997

ADVOCATES DISCIPLINARY TRIBUNAL

GUIDANCE NOTES

These notes have been produced to provide general information regarding the procedures adopted in dealing with complaints against Advocates and Registered Legal Practitioners, but should not be considered as having any legal authority. If you are in any doubt concerning the procedures or their effect you are advised to take legal advice. In these notes references to an "advocate" also includes references to a Registered Legal Practitioner.

THE TRIBUNAL

The Advocates Disciplinary Tribunal is a body established under the Advocates Act 1976 (as amended) and operates pursuant to the Advocates (Disciplinary) Rules 1997 (Statutory Document No 1/97). Copies of the Act (and amending legislation) and Rules may be purchased from the Central Reference Library, 3rd floor, Government Office, Bucks Road, Douglas. The Tribunal has been set up only to investigate complaints of professional misconduct by advocates. The Tribunal is unable to deal with matters of negligence, breach of contract, claims already before a Court, compensation claims or questions relating to the amount of advocates charges: there are other channels available for such matters. The Tribunal consists of a legally qualified, non-practising Chairman, two persons appointed by the Isle of Man Law Society and two persons nominated by the Isle of Man Office of Fair Trading.

HOW TO MAKE A COMPLAINT

If you wish to make a complaint against an advocate you may do so by writing to the Clerk to the Advocates Disciplinary Tribunal at Crown Division, Chief Secretary's Office, Government Office, Bucks Road, Douglas. A complaint cannot be considered unless it is against a named advocate and signed by you. You must set out, in writing, the case fully with a copy of the complaint and all supporting documents and proofs of evidence at this stage, as you may not be permitted to introduce additional material once the formal procedure is under way.

THE PROCEDURE

The Tribunal will examine your complaint and, if it falls within its powers under the Advocates Act and discloses a prima facie case, the Tribunal will forward a copy of the complaint and supporting papers to the named advocate. On receiving a reply, the Tribunal will send you copies and will arrange a hearing.

At any stage prior to a formal hearing of the complaint, the Tribunal may, with the consent of the complainant and advocate concerned, refer the matter to the Council of the Isle of Man Law Society for conciliation.

Your attention is drawn to Section 18 (7) of the Advocates Act 1976 which states that at the hearing either party to the proceedings is entitled to appear and be heard either in person or by an advocate. The Tribunal will consider all the evidence before it and make its decision.

The Tribunal may dismiss the complaint, or, if the complaint is proved, reprimand the advocate or order the advocate to pay to the Treasury a penalty not exceeding £5,000. The Tribunal may also, if it considers its powers to be inadequate, refer the matter for consideration by His Excellency the Lieutenant Governor.

APPEAL AGAINST THE DECISION

If either party is aggrieved by the Tribunal's decision, there is a right of appeal to His Excellency the Lieutenant Governor who will consider the matter with the advice of the Deemsters in accordance with the Acts and Rules. Such appeals are sent to the Clerk to the Advocates Disciplinary Tribunal, Crown Division, Chief Secretary's Office, Government Office, Douglas.

FURTHER INFORMATION

A complaint and supporting documentation must be submitted to the Clerk to the Advocates Disciplinary Tribunal, Crown Division, Chief Secretary's Office, Douglas, Tel: 01624 685211.

The Clerk to the Tribunal is not, under any circumstance, permitted to advise or assist in the conduct of any complaint.

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THE ADVOCATES ACTS 1976 TO 1995

THE ADVOCATES (DISCIPLINARY) RULES 1997

Statutory Document No: 1/97 (as amended as at 20 July 2000)

In exercise of the powers conferred on the Advocates Disciplinary Tribunal by section 16(2) of the Advocates Act 1976, and of all other powers enabling it in that behalf, the following Rules are hereby made:-

These rules may be cited as the Advocates (Disciplinary) Rules 1997 and shall come into operation on 13th January 1997.

2. In these Rules -

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

“Advocate” shall include a Registered Legal Practitioner;

“Chairman” means the Chairman of the Tribunal;

“Complaint” means a complaint or application to the Tribunal under section 4, 6 or 17 of the Act;

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

3. Any person wishing to make a complaint against an Advocate in respect of that Advocate’s professional conduct shall make that complaint in writing to the Tribunal. The complaint shall be signed by the complainant and sent to the Clerk to the Tribunal.

Every such complaint and any supporting documents shall be accompanied by a copy of such complaint and a copy of any supporting documents.

4.(1) Within 6 weeks of receiving the complaint referred to in Rule 3, the Tribunal shall consider such complaint and the documents in support thereof. Where, in the opinion of the Tribunal, no prima facie case in favour of the applicant or complainant is shown in the complaint, the Tribunal may make an order refusing or dismissing the complaint without requiring the Advocate to whom it relates to answer the allegations and without hearing the applicant or complainant. The Tribunal shall send notice in writing of its decision to the complainant and at the same time to the said Advocate and the Secretary of the Isle of Man Law Society and shall take no further action in relation to the complaint.

- 4.(2) If, on consideration of the complaint and documents in support thereof, the Tribunal determines that the same discloses a prima facie case in favour of the applicant or complainant, then and in such case the Tribunal shall within 4 weeks send to the Advocate to whom the complaint relates, a copy of the complaint and a copy of the documents submitted in support thereof and, at the same time, shall send to the said Advocate a notice requiring him to send to the Tribunal within the time specified in the notice, not being less than ten days from the date of the service of the said notice, an answer to the complaint together also with a copy of such answer and a copy of all such documents as he may rely on in support of the answer to the complaint.
5. Either party may inspect at the office of the Clerk of the Tribunal all such documents so furnished by the other, and either party may obtain a further copy of any such document upon applying for same and upon payment of the costs thereof. Neither the complainant nor the said Advocate shall be entitled to furnish any further evidence without the leave of the Tribunal or unless required by the Tribunal to do so.
6. If, upon reading the complaint, answer and supporting documents, (if any), the Tribunal finds that there is prima facie case for inquiry, it shall fix a day for the hearing and shall proceed to make inquiry into the case in the manner set out in Rules 8 to 11 hereof inclusive.
7. The Tribunal shall give to the complainant and to the Advocate at least ten days notice of the hearing, and shall furnish to the complainant a copy of the answer made by the Advocate to the complainant and a copy of the documents furnished by him.
8. Any party to any proceedings before the Tribunal relating to the complaint made to the Tribunal under these Rules shall be entitled to appear and be heard by the Tribunal either in person or by an Advocate.
9. If any party fails to appear at the hearing, the Tribunal may, upon proof of service of the notice of hearing, proceed to hear and determine the complaint in his absence though not represented.
10. In any case in which the said advocate -

does not appear; or

gives his written consent,

the Tribunal may proceed in his absence and may, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit.
(amended by Statutory Document 472/00)
11. The Tribunal may permit or direct such amendment of, or addition to, any complaint as at the hearing they may think necessary and desirable, and may direct that an affidavit or further affidavits be submitted.

12. Witnesses, including any party offering himself as a witness, shall be subject to examination, cross-examination and re-examination as nearly as may be as if they were witnesses in a civil action.
13. All decisions made by the Tribunal shall be signed by the Chairman and retained by the Clerk of the Tribunal and shall not be open for public inspection.
14. Parties to an inquiry shall, upon request, be entitled to obtain a copy of the decision.
15. The Tribunal shall hold its meetings at such place and at such times as it may fix, and may adjourn the consideration of any case from time to time. The meetings of the Tribunal shall be open only to such persons, in addition to the parties summoned to attend, as the Tribunal may direct.
16. Save in so far as the same is provided by the Act, the Tribunal may dispense with any requirement of these rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Tribunal to be just so to do.
17. Any notice or document required to be given or signed on behalf of the Tribunal may be signed by the Chairman.
18. 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.
19. When a complaint against an Advocate has once been lodged it shall not be withdrawn except by the leave of the Tribunal.
20. The originals of all complaints, answers documents and affidavits used upon behalf of a complainant or an Advocate in proceedings under these Rules, shall be retained by the Clerk to the Tribunal.
21. The Advocates (Disciplinary) Rules 1977 and the Advocates (Disciplinary) Rules 1987 (G.C. 28.87) are hereby revoked.

MADE at a meeting of the Tribunal this 13th day of January, 1997.

FORM I

ADVOCATES DISCIPLINARY TRIBUNAL

FORM OF NOTICE TO ADVOCATE/REGISTERED LEGAL PRACTITIONER

I enclose a copy of a complaint made by A.B., to the Advocates Disciplinary Tribunal, together with supporting documents.

You are required by the Act and the Rules made thereunder to furnish me with a copy of your answer to the complaint of A.B. within 14 days from the date of this notice, and you are, at the same time, to furnish me with a copy of such documents as you may rely upon in support of your answer.

You may inspect at my office the document lodged by the said A.B.

Neither your person attendance, nor attendance upon your behalf, is required before the Tribunal without further notice from me, but in the event of your failing to furnish me within 14 days from the date of this notice with your answer or with evidence of your inability to do so, the Tribunal may proceed with the consideration of the complaint in the absence of such answer or evidence.

Dated the day of

Chairman

FORM II

ADVOCATES DISCIPLINARY TRIBUNAL

FORM OF NOTICE TO COMPLAINANT

IN THE MATTER OF C.D., AN ADVOCATE.REGISTERED LEGAL PRACTITIONER

To: A.B.

The day of , is the day fixed for a hearing of your complaint in the matter of C.D., Advocate/Registered Legal Practitioner, by the Advocates Disciplinary Tribunal.

The Tribunal will sit in
at and you may appear in person or be represented by an Advocate of your own choice.

I enclose a copy of the answer of the said C.D., and of any supporting documents.

Either party may inspect in my office the documents lodged by the other.

If you fail to appear or be represented, the Tribunal may, in accordance with the Rules made under the Act, proceed with the consideration of the case in your absence.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of

Chairman

