

SOLICITORS DISCIPLINARY TRIBUNAL

PRACTICE DIRECTION NUMBER 6

PRACTICE DIRECTION ON CASE MANAGEMENT FOR FIRST INSTANCE PROCEEDINGS

1. The following Practice Direction is intended to give guidance to Applicants and Respondents appearing before the Solicitors Disciplinary Tribunal ("the Tribunal"). It is not intended to replace or vary The Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") and is made by the Tribunal's Policy Committee under Rule 21(3) SDPR, and promulgated under the authority of the President under Rule 21(4) SDPR. It applies to cases certified by the Tribunal as showing a case to answer after 25 October 2013 and is subject to review by the Tribunal from time to time.
2. The Overriding Objective when managing all cases brought before the Tribunal is to ensure that they are dealt with justly:
 - 2.1 To determine allegations brought against Respondents;
 - 2.2 To deal fairly with Applicants and Respondents, their representatives and others appearing before the Tribunal;
 - 2.3 To deal with cases efficiently and expeditiously;
 - 2.4 To ensure that all relevant evidential material is available to the Tribunal in a timely fashion and accessible format throughout the proceedings and at the final hearing;
 - 2.5 To deal with matters proportionally;
 - 2.6 To deal with matters in accordance with the Tribunal's duty to be independent, impartial and transparent.

3. It is the duty of every party actively to assist the Tribunal and its administrative staff in fulfilling the Overriding Objective.
4. Following receipt of an application ("the Application") and a worst-case scenario time estimate by the Tribunal and following certification by it of a case to answer, Standard Directions in the attached format will be sent to the parties, with dates completed by the Clerk to the Tribunal or by a Deputy Clerk to the Tribunal on the Clerk's instructions. In cases where the worst-case scenario time estimate provided by the Applicant is two days or more, a date will be provided in the Standard Directions for a Case Management Hearing ("CMH"). The CMH will take place either at the Tribunal's offices or by means of telephone conference call no sooner than 42 days after the deemed date of service of the proceedings. The CMH may be conducted by either a three-member Tribunal or by the Clerk or a Deputy Clerk. At the CMH, Directions using the Standard Directions as a starting point will be made as deemed appropriate after considering submissions from the parties and the specific issues in the case.
5. An application by a party to vary the Standard Directions must be made by email or post to the Tribunal, copied at the same time to every other party, within 21 days of the date of the Standard Directions.
6. All parties must ensure that, when documents upon which a party intends to rely are served on another party (including Answers, Statements (other than Statements and supporting documents under Rules 5, 7 and 8 which are served by the Tribunal's administrative office) and supporting documents), four copies of the documents are filed with the Tribunal in hard copy format at the same time. Any party who wishes to refer to a document at a hearing must ensure that he or she has sufficient copies available for every other party, the three members of the Tribunal, the clerk to the hearing and the witness. Bundles of documents must be clearly photocopied and paginated.

7. Pursuant to the Overriding Objective, the Respondent **shall** file at the Tribunal and serve on every other party an Answer to the Application stating which allegations (if any) are admitted and which (if any) are denied, by the date specified in the Standard Directions, which will be before the date fixed for a CMH where applicable. If any of the allegations are denied, the Answer must set out the reasons for the denial. The Respondent shall also file at the Tribunal and serve on every other party all documents on which the Respondent intends to rely at the substantive hearing by the date specified in the Standard Directions. The provision of an Answer by the Respondent will provide the Tribunal with a better understanding of the Respondent's case and assist in determining the Directions which should be given and accurately identifying the realistic amount of time required for the substantive hearing.
8. If a Respondent fails to comply with the Direction to file and serve an Answer, or any party fails to comply with any other Direction made by the Tribunal or by the Clerk/Deputy Clerk on its behalf, it will be open to the Tribunal at the substantive hearing:
 - 8.1 To draw such adverse inference from this failure as it considers appropriate and/or
 - 8.2 To direct that no evidence (either oral or in writing) which has not been filed and served as directed shall be adduced without leave of the Tribunal and/or
 - 8.3 To make an adverse costs order in default of compliance, which may be ordered to be paid immediately to the other party.
9. If by the date specified in the Standard Directions, the Respondent fails to file and serve an Answer to the Application, a CMH **will** be listed to take place before a three-member Tribunal at which **all parties must attend**, and at which the Tribunal will consider:
 - 9.1 The reason(s) for the Respondent's failure to file and serve an Answer and what, if any, further Directions the Tribunal should make;
 - 9.2 Any Directions proposed by the parties;

9.3 Setting a date for the substantive hearing and giving appropriate Directions in that regard;

9.4 The Tribunal may exercise its discretion to hold the CMH by telephone.

10. Attached to this Practice Direction are detailed examples of the Standard Directions that may be made. These are not intended to be exhaustive, nor may all be appropriate in every case. The particular circumstances of a case may result in other Directions being given.

11. So far as is reasonably practicable, cases will be allocated to a Deputy Clerk, supported by the Tribunal's Case Management Team, who will jointly monitor the progress of the case towards the substantive hearing. If parties request further Directions from the Tribunal, the request will be considered by the Deputy Clerk with case management responsibilities under the supervision of the Clerk at first instance. In such circumstances it will be the duty of the party seeking further Directions to make an application without delay. If the time estimate for the substantive hearing changes before the date by which the parties must file their Certificates of Readiness, the parties must immediately notify the Clerk of the revised time estimate with reasons and whether or not it has been agreed by all other parties.

12. No less than 28 days before the substantive hearing, all parties must file at the Tribunal and serve on every other party a Certificate of Readiness confirming that they are ready for the substantive hearing; stating what, if any, further Directions are required; and confirming that the time estimate of the final hearing is the same as was anticipated when Standard Directions were issued or at any subsequent CMH, or otherwise providing a revised time estimate. If on receipt of the Certificates of Readiness the Deputy Clerk with case management responsibilities considers after consultation with the Clerk that a further CMH is required, or, if one or more Certificates of Readiness have not been filed and served 28 days before the substantive hearing, a CMH date will be fixed at short notice which may be directed to take place by telephone rather than at the Tribunal's offices so that any further Directions can be made. **Failure by a**

party to file and serve a Certificate of Readiness by the deadline specified in Standard Directions will not delay the substantive hearing which will proceed on the date fixed.

13. If at the substantive hearing the Respondent wishes his or her means to be taken into consideration by the Tribunal in relation to possible sanctions and/or costs, he/she shall by no later than the date specified in the Standard Directions file at the Tribunal and serve on every other party a Statement of Means including full details of assets (including, but not limited to, property)/income/outgoings supported by documentary evidence. **Any failure to comply with this requirement may result in the Tribunal drawing such inference as it considers appropriate, and the Tribunal will be entitled to determine the sanction and/or costs without regard to the Respondent's means. A failure to comply may also cause the consideration of the Respondent's means to be adjourned by the Tribunal to a later date which may result in an increase in costs.**
14. Any party seeking an Order for Costs against another party at an interim hearing shall file with the Tribunal and serve on the relevant party a schedule of costs no later than 48 hours before the hearing in respect of which the costs order is sought.
15. Any party seeking an Order for Costs against another party at a substantive hearing shall file with the Tribunal and serve on the relevant party a schedule of costs no later than 5 working days before the hearing in respect of which the costs order is sought.
16. Any application for an adjournment of a CMH or substantive hearing must be made as soon as the circumstances justifying an adjournment are known to the party making the application. The application will be considered on its merits by the Tribunal, or in limited circumstances the Clerk, both of whom will pay due regard to the Tribunal's Policy/Practice Note on Adjournments in force at the time the application for an adjournment is made.
17. Respondents are required to inform the Tribunal of their postal address, e-mail address, home, office and mobile telephone numbers and of any changes to that information as soon as

possible after they come into effect. Any failure to comply with this requirement may result in an interim or substantive hearing proceeding in the absence of the Respondent.

Dated this 22nd day of October 2013

Signed on behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'Andrew Spooner', written in a cursive style.

Andrew Spooner

President

SOLICITORS DISCIPLINARY TRIBUNAL - STANDARD DIRECTIONS

Case No. [.....]

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

[RESPONDENT'S NAME]

Respondent

STANDARD DIRECTIONS FOR FIRST INSTANCE PROCEEDINGS

IMPORTANT NOTES TO STANDARD DIRECTIONS

APPLICATIONS BY THE PARTIES (BY AGREEMENT OR OTHERWISE) TO VARY THE STANDARD DIRECTIONS BELOW, INCLUDING APPLICATIONS TO VARY THE FIXED SUBSTANTIVE HEARING DATE, MUST BE MADE BY EMAIL OR POST TO THE TRIBUNAL, COPIED TO EVERY OTHER PARTY, WITHIN 21 CALENDAR DAYS OF THE DATE OF THIS DOCUMENT.

All parties must ensure that, when documents upon which a party intends to rely are served on another party, four copies of the documents are filed with the Tribunal in hard copy format at the same time.

STANDARD DIRECTIONS

The Tribunal Orders that the parties prepare for the substantive hearing of this case as follows:

1. The case be listed for substantive hearing on **[insert date]** at **[insert time]** at **Gate House, 1 Farringdon Street, London EC4M 7LG**, based on the worst-case scenario time estimate of **[insert time estimate]** provided by the Applicant/Applicant's legal representatives. **The parties and their legal representatives (where instructed) are encouraged to attend 30 minutes before the time fixed for the start of their hearing for the purposes of any preliminary discussion that may be appropriate and/or to resolve any administrative issues which may arise, in order to avoid delay in the start of the hearing. *OR***

A Case Management Hearing/Case Management Conference Call will take place on **[insert date]** at **[insert time]** at **Gate House, 1 Farringdon Street, London EC4M 7LG** with a time estimate of **30 minutes** before the [Tribunal/Clerk/Deputy Clerk]. **The parties and/or their legal representatives (where instructed) are encouraged to attend 30 minutes before the time fixed for the start of their hearing for the purposes of any preliminary discussion that may be appropriate and/or to resolve any administrative issues which may arise, in order to avoid delay in the start of the hearing.**

2. If the Applicant and (some or all of) the Respondent(s) jointly wish to submit to the Tribunal for approval an Agreed Outcome at any stage of these proceedings **up to but no later than 28 days before the date fixed for the substantive hearing of the Application (unless the Tribunal directs otherwise)**, they must proceed as follows:
 - 2.1. They must submit to the Tribunal in writing a document signed by the relevant parties and which contains the following:
 - (a) A statement of the facts that are agreed between the parties;
 - (b) The proposed penalty and an explanation as to why such an order would be in accordance with the Tribunal's sanctions guidance.
 - 2.2. The name of the case will be published in the first convenient Daily Cause List and a Tribunal will consider in private whether the joint application can be dealt with on the papers (without attendance by or on behalf of the parties in order to save costs).
 - 2.3. If the Tribunal decides to make findings and order in the terms of the agreement between the parties it will proceed to do so immediately. The case will be called in open court and the Tribunal will announce its decision. All open court sessions will be recorded.
 - 2.4. If the Tribunal wishes to hear from the parties before making its decision the Tribunal will direct that there be a Case Management Hearing on a future date to be fixed at which the parties and/or their legal representatives must attend for the purpose of hearing submissions on the joint application before a final decision is reached. Where practical, the same Tribunal will sit on the Case Management Hearing to hear the submissions. The hearing will be in private as privileged discussions between the parties will be disclosed.
 - 2.5. Where the Tribunal considers that it needs further information or clarification prior to making a decision it will seek that information from the parties either prior to making a decision on the papers or prior to the Case Management hearing as the case may be.

- 2.6. In determining whether to make findings and orders on an agreed basis the Tribunal will exercise its discretion as to whether it considers in all the circumstances:
- (a) The proposed agreed sanction meets its own sanctions guidance and is an appropriate one to make.
 - (b) Whether the agreed sanction is unfair to any other respondent not a party to the agreement.
- 2.7. If the Tribunal is not satisfied that it is appropriate to make the order then it will inform the parties as to why it has reached that conclusion and provide them with an opportunity to make a revised proposal that meets the Tribunal's concerns and if so the Tribunal may make an order in the revised terms.
- 2.8. If the Tribunal does not make an order on agreed terms then it will make directions for the substantive disposal of the matter before a differently-constituted Tribunal.
3. The Respondent/s shall file at the Tribunal and serve on every other party an Answer to the Applicant's Rule [5, 7, 8] Statement by **4.00 p.m. on [insert date 28 days after date of service of proceedings]**. The Answer must state which of the allegations (if any) are admitted and which (if any) are denied. In respect of any which are denied, the Answer must set out the reasons for the denial.
4. The Respondent/s shall file at the Tribunal and serve on every other party all documents on which the Respondent/s intend/s to rely at the substantive hearing by **4.00 p.m. on [insert date 28 days after date of service of proceedings]**.
5. The Applicant may, if so advised, file at the Tribunal and serve on every other party a Reply to the Answer by **4.00 p.m. [insert date 14 days after date of service of Answer]**.
6. The Applicant shall file at the Tribunal and serve on every other party any documents not included in the Rule [5, 7, 8] Statement on which he relies by **4.00 p.m. on [insert date 14 days after date of service of Answer]**.
7. If at the substantive hearing the Respondent wishes his or her means to be taken into consideration by the Tribunal in relation to possible sanctions and/or costs, he/she shall by no later than **4.00 p.m. on [insert date 28 days before the date fixed for the hearing of the application]** file at the Tribunal and serve on every other party a Statement of Means including full details of assets (including, but not limited to, property)/income/outgoings supported by documentary evidence. **Any failure to comply with this requirement may**

result in the Tribunal drawing such inference as it considers appropriate, and the Tribunal will be entitled to determine the sanction and/or costs without regard to the Respondent's means. A failure to comply may also cause the consideration of the Respondent's means to be adjourned by the Tribunal to a later date which may result in an increase in costs.

8. Each party must file at the Tribunal and serve on every other party a completed Certificate of Readiness on the attached form by no later than **4.00 p.m. on [insert date 28 days before the date fixed for the hearing of an application]**.
9. The Applicant and Respondent shall file at the Tribunal and serve on every other party the witness statements of any witnesses upon whose evidence they intend to rely at the substantive hearing and whose statement has not already been served by **4.00 p.m. on [insert date 21 days before the hearing date]**.
10. Rule 13 SDPR makes general provisions in relation to Evidence. Subject to the provisions in Rule 13, the Civil Evidence Act 1968 and the Civil Evidence Act 1995 apply to these proceedings in the same manner as they apply to civil proceedings. Rule 13(2) SDPR provides for the giving of notices under those Acts. Any Notice under Rule 13(2) SDPR shall be filed at the Tribunal and served on every other party by no later than **4.00 p.m. on [insert date no later than 21 days before the date fixed for the hearing of an application]**. Rule 13(3) SDPR provides for the giving of counter-notices under those Acts. Any Counter-Notice under Rule 13(3) SDPR shall be filed at the Tribunal and served on every other party by no later than **4.00 p.m. on [insert date no later than 10 days before the date fixed for the hearing of an application]**.
11. Each party to notify the other(s) of the names of any witnesses whom they wish to attend the hearing for cross-examination by no later than **4.00 p.m. on [insert date 10 days before the hearing date]**.
12. If there remains a dispute about disclosure of documents or witness statements which cannot be resolved between the parties, either party is at liberty to apply to the Tribunal for further Directions.
13. Any party seeking an Order for Costs against another party at an interim hearing shall file with the Tribunal and serve on the relevant party a schedule of costs not less than 48 hours before the hearing in respect of which the costs order is sought.

14. Any party seeking an Order for Costs against another party at a substantive hearing shall file with the Tribunal and serve on the relevant party a schedule of costs not less than 5 working days before the hearing in respect of which the costs order is sought.
15. The Applicant to serve a draft hearing bundle index on every other party by **4.00 p.m. on [insert date]**.
16. The parties to agree the content of the hearing bundle by **4.00 p.m. on [insert date]**.
17. Four copies of the agreed paginated hearing bundle must be filed at the Tribunal by **4.00 p.m. on [insert date]**, unless the documents to be relied upon have been exhibited to the Statement in support of the Application or to any witness statement or affidavit filed at the Tribunal.
18. Where a party wishes to rely upon skeleton arguments and authorities, they shall be filed at the Tribunal and served on every other party by **4.00 p.m. on [insert date]**.
19. The target date to conclude these proceedings by is **[insert target date]**.
20. If the Respondent fails to attend the substantive hearing and the Tribunal is satisfied that notice of the hearing was served on the Respondent in accordance with Rule 10 (1) of the Solicitors (Disciplinary Proceedings) Rules 2007, it will be open to the Tribunal to make such findings, sanctions, costs and orders as it considers appropriate in respect of the application, notwithstanding the absence of the Respondent.
21. [Insert other Directions e.g. expert evidence, disclosure]
22. Costs in the Application
23. Liberty to apply

[For cases where a Case Management Hearing is listed, include the following directions where it says 'Insert other Directions..']

24. The substantive hearing will be listed at the Case Management Hearing on **[insert date]**. The matter will be listed for substantive hearing no later than the target date referred to in paragraph **[insert number]** above, unless exceptional circumstances apply and/or the interests of justice dictate otherwise.

25. The parties are to attend the Case Management Hearing on **[insert date]** with details of their available dates for the substantive hearing. If any party fails to provide their available dates at the Case Management Hearing, the substantive hearing will be fixed without any further reference to the parties.

Dated:

SOLICITORS DISCIPLINARY TRIBUNAL

Case No. _____.

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

[ADD NAME(S) OF RESPONDENT(S)]

Respondent

CERTIFICATE OF READINESS

NAME OF PARTY FILING CERTIFICATE:	
DATE CERTIFICATE FILED AT TRIBUNAL:	
DATE HEARING TIMETABLE FILED AT TRIBUNAL:	

1. I confirm that I sent a copy of this Certificate of Readiness and all documents attached (including the Hearing Timetable) to every other party on (please provide date below):	
DATE:	

2. I confirm that I have complied with those Directions which require action by me and that I am ready for the final hearing (please place X in one box below):			
YES		NO	

If you have answered "No" – state the number(s) of the direction(s) with which you have yet to comply and the date by which this will be done. Please use an additional sheet if necessary.

Date of Order	Direction(s) Number	Date by Which You Will Comply

3. Do you require any further Directions (please place X in one box below):			
YES		NO	
If you have answered “Yes” – attach to this Certificate your application for further Directions with supporting documents (if applicable) and a draft of the Order sought.			
4. How many witnesses will be giving evidence on your behalf at the final hearing?			
5. Evidence by video link¹			
Do you require any witnesses to give evidence using the Tribunal’s video link? (please place X in one box below):			
YES		NO	
If you have answered “yes” the Tribunal will need to consider whether to make a direction (if it has not already done so), for the witness(es) to give evidence by video link. Please provide details of the grounds to support the application below, using an additional sheet if necessary:			

¹ See ‘SDT Video Link Request Guidance Note’ available on SDT website or on request from the Case Management Team.

6. Hearing Timetable:

To enable the Case Management Team to list this matter appropriately, please complete the hearing timetable attached with details of the estimated time required by each party to examine each witness. Where possible, this template should be agreed between the parties. **The Hearing Timetable should be returned with your Certificate of Readiness regardless of whether it is agreed or not.** Please also indicate time estimates for opening and closing submissions on this template.

Example:

DATE	WITNESS/ OPENING & CLOSING	APPLICANT	RESPONDENT	TOTAL
DAY 1				
15.02.16	<i>Opening</i>	<i>25 mins</i>	<i>25 mins</i>	<i>50 mins</i>
	<i>Witness A</i>	<i>10 mins</i>	<i>20 mins</i>	<i>30 mins</i>
	<i>Witness B</i>	<i>15 mins</i>	<i>25 mins</i>	<i>40 mins</i>
	<i>Witness C</i>	<i>20 mins</i>	<i>30 mins</i>	<i>50 mins</i>
LUNCH				
	<i>Witness D</i>	<i>30 mins</i>	<i>40 mins</i>	<i>1hr 15</i>
	<i>Witness E</i>	<i>15 mins</i>	<i>20 mins</i>	<i>35 mins</i>
	<i>Witness F</i>	<i>30 mins</i>	<i>15 mins</i>	<i>45 mins</i>
Total Day 1				5 hrs 25

7. Please provide the name, nature of advocate and contact details below of the person who will be presenting your case at the substantive hearing?

NAME:	
COUNSEL OR SOLICITOR:	
CONTACT DETAILS:	
ADDRESS:	
PREFERRED TELEPHONE NUMBER:	
PREFERRED EMAIL ADDRESS:	
OTHER CONTACT DETAILS AS APPLICABLE:	

8. Has the time estimate for the final hearing changed?			
YES		NO	
If you have answered "Yes" please answer the questions below, using an additional sheet if necessary:			
a)	What are the reasons for this?		
b)	Have you informed the Tribunal and, if so, when?		
c)	How long do you think the hearing will take?		
d)	Have you agreed the new time estimate with every other party?		
e)	If not, why not?		

SIGNED:	
NAME OF SIGNATORY:	
PARTY REPRESENTED (IF APPLICABLE):	
DATE:	