

Guidance Note for Lay Applicants

ABOUT THE SOLICITORS DISCIPLINARY TRIBUNAL (SDT)

The SDT is an independent body that hears and decides cases about alleged misconduct by solicitors and their firms. Its role is to protect the public and uphold confidence in the legal profession.

When preparing an application, it is important to remember that the Tribunal does not deal with cases involving:

- poor service;
- negligence;
- a civil dispute;
- dissatisfaction with an outcome.

The Tribunal's remit is limited to professional misconduct only and it cannot award compensation.

This guide explains how to bring a case directly as a member of the public. This is called a lay application. The guide will cover the four steps you need to take, up to and including the Tribunal's decision on whether your application shows a case to answer.

More information is available at: www.solicitorstribunal.org.uk

THE PROCESS

There are four steps:

- **Step 1** — Consider whether to apply and try other routes first.
- **Step 2** — Send your application to the SDT.
- **Step 3** — The SDT reviews your application (certification).
- **Step 4** — If your application is not certified: your options.

STEP 1

TRY OTHER ROUTES FIRST

Before applying to the SDT, you may wish to explore whether your issue should be directed to a different organisation:

The Legal Ombudsman deals with complaints about the service provided by a solicitor or law firm, for example, delays, poor communication, or inadequate work. It can require an apology, a refund, compensation, or further work to be done. (www.legalombudsman.org.uk).

The Solicitors Regulation Authority (SRA) investigates concerns about a solicitor's conduct. The SRA has investigation powers that the SDT does not, and the SDT will normally expect

concerns about misconduct to have been raised with the SRA first. The SRA can bring its own application to the SDT if appropriate. (www.sra.org.uk)

Understand what the SDT can and cannot do:

The SDT decides cases. It cannot:

- investigate or gather evidence on your behalf;
- require the SRA to investigate [subject to Rule 16 of The Solicitors \(Disciplinary Proceedings\) Rules 2019](#) (“SDPR 2019”);
- award compensation.

If you bring a lay application, you are responsible for:

- collecting and presenting your own evidence;
- preparing the application form and supporting statement;
- preparing any witness statements;
- preparing the hearing bundle, if your application is certified;
- attending hearings;
- if necessary, questioning the solicitor and any witnesses.

Independent legal advice is strongly recommended before you apply.

BE AWARE OF THE COSTS RISKS

The Tribunal has the power to make orders for the costs of proceedings against you. This depends largely on the outcome of the case. Costs may include those incurred by the other party, potentially including the costs of instructing a solicitor or barrister. As with any litigation, you should be aware that costs may be considerable.

STEP 2

SEND YOUR APPLICATION TO THE SDT

WHAT YOU NEED TO SEND

Your application must include:

- the prescribed application form (available on the SDT website);
- a written statement setting out the allegations and the facts and matters that support them, this is called a Rule 12 Statement; and
- all supporting documents you wish to rely on.

STATEMENT OF TRUTH

Your statement, and the statement of any witness, must end with a Statement of Truth in the following form, signed and dated:

“I believe that the facts stated in this [name and date of the document] are true.”

WHAT SHOULD THE APPLICATION AND WRITTEN STATEMENT INCLUDE?

A successful application would normally be set out as follows:

The application is signed and dated.
The allegations are set out clearly and separately.
Each allegation identifies the conduct complained of.
The allegations are linked to the relevant SRA Principles and/or Code of Conduct provisions.
The application explains why the conduct amounts to professional misconduct rather than poor service or negligence alone.
Relevant documents and evidence are provided.
Witness evidence is included where available.
The facts are presented in a logical and chronological way.
The application explains the solicitor's role and involvement in the events complained of.

WHAT AN UNSUCCESSFUL APPLICATION MAY LOOK LIKE:

The application is not signed or dated.

The allegations are unclear or too general.

The application does not explain what the solicitor is alleged to have done wrong.

The allegations are not linked to any SRA Principle, Code of Conduct requirement, or other professional obligation.

The complaint relates only to poor service, negligence, fees, delay, or dissatisfaction with the outcome of a case.

The application contains conclusions or opinions but little supporting evidence.

The application asks the Tribunal to investigate or obtain evidence on the applicant's behalf.

The application repeats a previous application without providing new evidence or new grounds.

CASE EXAMPLES

Case Example 1 – Complaint about poor service or negligence

Mrs Smith instructs Patel Wright Solicitors to defend a claim brought against her. The claim is unsuccessful and judgment is entered against her. Mrs Smith believes the solicitor failed to respond properly to the claim and that, as a result, she suffered financial loss.

Mrs Smith applies directly to the SDT. Her application explains why she believes the solicitor handled the matter poorly but does not identify any conduct that might amount to professional misconduct.

The SDT refuses to certify the application. The Tribunal concludes that the allegations appear to concern the quality of the legal service provided and a possible claim in negligence, rather than a breach of professional standards requiring disciplinary action.

Mrs Smith is directed to consider other routes, including the Legal Ombudsman and obtaining independent legal advice about any potential civil claim.

Case Example 2 – Allegations not properly particularised

Mr Bergamot applies to the SDT alleging that his solicitor, Mrs Harrington, acted dishonestly and failed to keep him informed about his matter.

In his application he states that he is unhappy with the way the case was handled and believes the solicitor acted improperly. However, he does not identify the specific conduct complained of, the dates of the relevant events, or the professional obligations he says were breached. He provides little supporting evidence.

The SDT refuses to certify the application. The Tribunal concludes that the allegations are insufficiently particularised and are not supported by enough information or evidence to demonstrate a case to answer.

The Tribunal explains that applicants should clearly identify the conduct complained of, explain why it is said to amount to misconduct, and provide supporting evidence wherever possible.

WHERE TO SEND YOUR APPLICATION

Send to the SDT:

By email (preferred): enquiries@solicitorsdt.com

By post: The Clerk to the SDT, 2nd Floor, 45 Ludgate Hill, London EC4M 7JU

Previous Applications

If you have applied to the Tribunal before in respect of the same matter, the administrative team will carry out additional checks before your application reaches the reviewing Solicitor Member.

The reviewer will consider whether your current application is the same as or substantially the same as a previous one, and whether you have raised any new evidence or grounds.

To give your application the best chance of being looked at afresh, explain in your statement:

- how it differs from your previous application;
- what new evidence you are providing; and
- what new grounds or arguments you are raising.

If your application is the same as a previous one and raises nothing new, it is likely to be refused.

STEP 3 THE SDT REVIEWS YOUR APPLICATION (CERTIFICATION)

HOW CERTIFICATION WORKS

The application form, Rule 12 Statement and supporting documents (under Rule 12 SDPR 2019) are placed before a Solicitor Member of the Tribunal by the Tribunal's administrative team. The Solicitor Member decides whether to certify the application as showing a case to answer.

Think of certification as similar to a court deciding whether there is enough evidence for a claim to go to trial. It is **not a finding that the allegations are true**, only that they are serious and sufficiently supported to warrant a hearing.

If the Solicitor Member is minded not to certify, or feels the case is one of doubt or difficulty, the application is referred to a Rule 13 Panel of three Members for fuller consideration.

If the application is certified, formal proceedings are issued and you become an 'Applicant'. If it is not certified, you are informed in writing with brief reasons.

Certification is decided on the papers

There is no hearing at the certification stage. Neither you nor the solicitor are invited to make oral submissions. The reviewer decides on the basis of the written application alone. This makes the quality of your written application particularly important.

Stage 1 — Review by a Solicitor Member

Your application is first considered by a Solicitor Member of the Tribunal. The Solicitor Member can:

- certify the application as showing a case to answer; or
- refer the application to a Rule 13 Panel of three Tribunal Members where the case is one of doubt or difficulty, or where the Solicitor Member is minded to refuse but feels the question warrants fuller consideration; or
- refuse to certify the application.

Stage 2 — Rule 13 Panel

If the application is referred to a Rule 13 Panel, the Panel reconsiders it on the papers. The Panel comprises three Tribunal Members, at least two of whom are Solicitor Members and one of whom is a Lay Member. The Panel can:

- certify the application; or
- refuse to certify the application; or
- adjourn the application for up to three months for it to be investigated by the SRA under Rule 16 of SDPR 2019. A further three-month adjournment may be granted in some circumstances.

HOW YOU WILL BE INFORMED OF THE OUTCOME

You will be informed of the outcome in writing in a Memorandum signed by the Chair of the Panel, with brief reasons. The four possible outcomes are:

OUTCOME	WHAT IT MEANS
Certified	The Solicitor Member/panel of three Tribunal Members is satisfied that there is a case to answer. Formal proceedings are issued and the case proceeds to a substantive hearing. From this point you are no longer described as the lay applicant but as the Applicant in the proceedings.
Referred to a Rule 13 Panel	The Solicitor Member is in doubt, or is minded to refuse, and refers the application to a panel of three Tribunal Members for fuller consideration.
Adjourned for SRA Investigation	The Rule 13 Panel may direct an adjournment of up to three months for the matter to be investigated by the SRA. A further three-month adjournment may be granted in some circumstances.
Not Certified	The Solicitor Member/panel of three Tribunal Members is not satisfied that the application shows a case to answer. The application is refused. You will receive a written Memorandum giving brief reasons. There is a right of appeal (see Step 4).

STEP 4

IF YOUR APPLICATION IS NOT CERTIFIED: YOUR OPTIONS

RIGHT OF APPEAL

You have a right of appeal to the High Court under section 49(2) of the Solicitors Act 1974 against a decision not to certify your application.

For details of how to appeal, contact the Administrative Court Office:

Administrative Court Office

Royal Courts of Justice, Strand, London WC2A 2LL

Switchboard: 020 7947 6000

Enquiries: 020 7947 6655

Notice of any appeal should be given to both the SDT and the SRA. The Tribunal is not a party to the appeal and will not take part in it.

IF YOUR APPLICATION IS CERTIFIED:

If your application is certified, the case proceeds to a substantive hearing. From this point, you are no longer described as the lay applicant but as the Applicant in the proceedings. There are separate guides on the SDT website for the steps that follow:

- the Information Guide for Unrepresented Applicants — covering directions, the hearing bundle, the substantive hearing, and the rights of appeal that follow it; and
- the Information Guide for Witnesses — if you, or anyone you intend to call, will be giving evidence.

KEY TERMS

These are the most important terms used in this guide.

TERM	MEANING
Certification	The decision, made on the papers by a Solicitor Member of the Tribunal, or a Rule 13 Panel on whether your application shows a case to answer.
Clerk	An experienced solicitor or barrister who advises the Tribunal Panel on law and procedure. The clerk does not decide the case and does not advise the parties.
Costs order	An order requiring one party to pay some or all of the other party's legal costs.
Lay application	An application made directly to the Tribunal by a member of the public, rather than by the SRA.
Memorandum	A written record of the Tribunal's certification decision, signed by the Chair, with brief reasons.
Panel/Rule 13 Panel	Three Tribunal Members — at least two of whom is a Solicitor Member and one of whom is a Lay Member — to whom an application may be referred at the certification stage where the case is one of doubt or difficulty, or where the Solicitor Member is minded to refuse.
Respondent	The solicitor, firm or other person against whom the application is made.

Rule 12 Statement	A written statement, signed and dated, setting out the allegations and the facts and matters supporting the application. Required by Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019.
SRA	Solicitors Regulation Authority — the body that regulates solicitors. The SRA has investigation powers and can bring its own applications to the Tribunal.
Substantive hearing	The hearing at which the Tribunal decides whether the allegations are proved and, if so, what sanction to impose. Substantive hearings only take place if the application is certified.

Further questions? Please contact the SDT:

enquiries@solicitorsdt.com | www.solicitorstribunal.org.uk

