

## PRACTICE DIRECTION NUMBER 1: AGREED OUTCOMES

1. The following Practice Direction is intended to provide practical clarification to Applicants and Respondents wishing to submit an Agreed Outcome to the Solicitors Disciplinary Tribunal (“the Tribunal”). It is not intended to replace or vary the Solicitors Disciplinary Procedure Rules (hereafter referred to as the ‘SDPR’) and is made by the Tribunal’s Policy Committee under Rule 6 (3) SDPR and promulgated under the authority of the President under Rule 6 (4) SDPR. It applies to cases certified by the Tribunal as showing a case to answer on or after 25 November 2019 and is subject to review by the Tribunal periodically.
2. An Agreed Outcome is a resolution of a case reached between the Respondent and the SRA without the need for a full contested hearing. The parties may agree on the **facts only**, the **facts and the sanction**, or the **facts, sanction, and costs**, and then apply to ask the tribunal to formally **approve the agreement**. Once approved, the Agreed Outcome has the same effect as a decision following a contested hearing.
3. Under Rule 25(1) SDPR 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.
4. In accordance with Rule 25(2)(a) SDPR an Agreed Outcome Proposal must contain a statement of the facts that are agreed between the relevant parties. This statement must not include a statement that any other respondent to the proceedings is at fault in respect of any allegation made in relation to the application unless —
  - a) there has been a finding of fact to that effect by a judicial or quasi-judicial body; or
  - b) the person in question has indicated to the Tribunal in writing that the statement is accurate
5. In cases where there is more than one respondent and the Agreed Outcome Proposal does not relate to all of the respondents, the applicant must —
  - a) serve a copy of the Agreed Outcome Proposal on all the other respondents;
  - b) invite those respondents to provide any response to the applicant within seven days of service;
  - c) inform the Tribunal when the Agreed Outcome Proposal is submitted that all other respondents have been served and provide proof of the same together with the details of any responses received by the end of the period mentioned in paragraph (5)(b).

6. If, after hearing the parties in accordance with Rule 25(4), the Tribunal is not satisfied that it is appropriate to make an Order under Rule 25(3) SDPR, and the parties request it, the Tribunal may consider whether it wishes to indicate the sanction it considers appropriate based on the Agreed Facts.
7. If the Tribunal is not satisfied on the information before it that the proposed Agreed Outcome should be approved, the Tribunal may list a further case management hearing. This can be either before some or all of the same members of the panel or before different members (depending on listing availability). In this situation the Tribunal will provide the parties with a Memorandum setting out the clarification and/or further information required before that case management hearing.

### **LATE SUBMISSION OF THE AGREED OUTCOME**

8. For applications made less than 28 days before the hearing the parties must apply, with detailed reasons:
  - as to why the application is late and
  - for leave to submit the Agreed Outcome application.

If, leave is given the Tribunal will make appropriate directions taking into account all relevant factors including the position of any other respondent(s). The Tribunal would expect all parties to the proceedings to be served with any such application.

9. The reason for the 28-day time limit set out in Rule 25 is to ensure there is time to convene a different division of the Tribunal (to that listed to hear the substantive hearing) to consider the Agreed Outcome. If the division listed to hear the substantive case considers the Agreed Outcome, and declines to approve it, there is a likelihood that the substantive hearing date will be lost as the Tribunal members who were listed to sit would have to recuse themselves.

### **COSTS**

10. In the event that leave is granted, and notwithstanding any agreement between the parties as to costs, the Tribunal retains the power under Rule 43(1) of SDPR to make such order as it considers appropriate, including requiring any party to pay, or contribute towards, costs in an amount it considers reasonable. Such costs are those arising from, or ancillary to, proceedings before the Tribunal. The Tribunal will not seek disclosure of any communications or proposals between the parties relating to the settlement of costs and may only take such materials into account if they are voluntarily brought to its attention by a party. The extent to which the Tribunal may have regard to such materials will be determined solely at its discretion, in accordance with the principles of fairness and proportionality.