

LEGAL PROFESSION ACT
(CHAPTER 161, PARAGRAPH 11 OF
THE SECOND SCHEDULE)

LEGAL PROFESSION
(INADEQUATE PROFESSIONAL SERVICES
COMPLAINT INQUIRY) RULES

ARRANGEMENT OF RULES

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[1st September 1998]

Citation

1. These Rules may be cited as the Legal Profession (Inadequate Professional Services Complaint Inquiry) Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“complaint” means a written complaint made by a client to the Council which appears to disclose that the professional services provided by the solicitor or his law practice in connection with any matter has not been of a quality which it is reasonable to expect of him as a solicitor;

“Investigative Tribunal” means an Investigative Tribunal appointed by the Council under rule 6(1);

“law firm” has the same meaning as in the Legal Profession (Professional Conduct) Rules (R 1);

“law practice”, in relation to a solicitor, means the solicitor’s law firm, a law corporation of which the solicitor is a director or an employee or a limited liability law partnership of which the solicitor is a partner or an employee;

“mediator” means a mediator appointed by the Council under rule 4(3).

Complaint to be supported by statutory declaration

3. Where the Council determines that a complaint by a client be referred for investigation under these Rules, the Council may require that the complaint be supported by a statutory declaration of the client which must be forwarded to the Council.

Mediation of complaint

4.—(1) Where the Council determines that a complaint by a client be referred for investigation under these Rules, the Director of the Society shall write to the client to determine if the client consents to the mediation of his complaint by a mediator appointed by the Council.

(2) The Director of the Society shall forward to the client a notice, which shall be in such form as the Council may determine, to ascertain if the client consents to have his complaint mediated upon.

(3) If the client consents to the mediation, the Council shall as soon as practicable appoint any solicitor who has in force a practising certificate to be the mediator and forward to the mediator a copy of the complaint specifying the allegations against the solicitor concerned.

(4) The mediator shall as soon as practicable fix a date for the mediation and, by a notice which shall be in such form as the Council may determine, forward to the solicitor concerned a copy of the complaint and the notice referred to in paragraph (2).

Duties and powers of mediator

5.—(1) The mediator may, by a notice which shall be in such form as the Council may determine, require the client and the solicitor

concerned to furnish to him any document or file relevant to the complaint.

(2) The mediator may adjourn the mediation as he thinks fit but shall complete his mediation within 4 weeks from the time of his appointment under rule 4(3).

(3) The mediator shall upon completion of his mediation submit a written report to the Council which shall inform the Council if the complaint was mediated upon successfully and settled and the terms of the settlement, if any.

Duties and powers of Investigative Tribunal

6.—(1) A complaint by a client which has neither been referred to mediation nor settled by mediation shall be referred forthwith by the Council to an Investigative Tribunal appointed by the Council for an inquiry.

(2) An Investigative Tribunal shall consist of —

- (a) a Chairman who is a solicitor of not less than 10 years' standing; and
- (b) one other member who is a solicitor who has in force a practising certificate.

(3) The Investigative Tribunal shall —

- (a) within 2 weeks of its appointment, commence its inquiry into the complaint; and
- (b) within 2 months of its appointment, report its findings to the Council.

(4) The Investigative Tribunal shall post or deliver to the solicitor concerned a copy of each of the complaint and any statutory declaration in support of the complaint and invite him to submit, within a period of not less than 14 days, to the Tribunal any written explanation he may wish to offer and to inform the Tribunal if he wishes to be personally heard by the Tribunal.

(5) The Investigative Tribunal may, after receiving any written explanation from the solicitor concerned or having heard the solicitor, request the client if he wishes to be heard personally by the Tribunal.

(6) The Investigative Tribunal shall give due consideration to any explanation given by the solicitor concerned.

(7) Where an Investigative Tribunal is unable to report its findings to the Council within 2 months under paragraph (3)(b), due to the complexity of the matter or serious difficulties encountered by the Tribunal in conducting the inquiry, the Tribunal may apply in writing to the Council for an extension of time to report its findings to the Council.

(8) The Council may grant an extension of time to an Investigative Tribunal to report its findings if the Council is satisfied that the circumstances of the case justify the grant of an extension of time except that any extension of time granted shall not extend beyond the period of 6 months from the date of the appointment of the Tribunal.

(9) No application for an extension of time may be made to the Council under paragraph (7) upon the expiry of 6 weeks after the appointment of the Investigative Tribunal.

(10) Where the client withdraws his complaint before the Council has referred the complaint to an Investigative Tribunal or before the conclusion of the inquiry by the Tribunal, the Council may, notwithstanding such withdrawal, refer the complaint to or direct the Tribunal to continue the inquiry, as the case may be, and the Tribunal shall comply with the direction and all future proceedings therein shall be taken as if the complaint had been made by the Society.

Report of Investigative Tribunal

7.—(1) The report of an Investigative Tribunal under rule 6(3)(b) shall, amongst other things, deal with the necessary steps as described in paragraph 2 of the Second Schedule to the Act which should be taken against the solicitor concerned if it appears to the Tribunal that the professional services provided by him in connection with any matter in which he or his law practice has been instructed by the client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor.

(2) Where, in the course of its inquiry, an Investigative Tribunal receives information touching on or evidence of the conduct of the solicitor concerned which may give rise to a further complaint of failure to provide adequate professional services, the Tribunal may,

after giving written notice to the solicitor concerned, proceed to inquire into the matter of its own motion and report its findings to the Council.

(3) Where, in the course of its inquiry, an Investigative Tribunal receives information touching on or evidence of the conduct of the solicitor concerned which discloses information of misconduct under Part VII of the Act or an offence under any written law, the Tribunal shall record the information in its report to the Council.

Determination by Council

8.—(1) The Council shall consider the report of the Investigative Tribunal within one month of the receipt of the report and shall determine —

- (a) that the complaint against the solicitor concerned be dismissed;
- (b) having regard to all the circumstances of the case, that the Council takes all or any of the steps recommended by the Tribunal or such other steps as the Council may determine against the solicitor concerned where it appears to the Council that the professional services provided by him in connection with any matter in which he or his law practice has been instructed by the client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor;
- (c) having regard to all the circumstances of the case, that the Council refers the conduct of the solicitor concerned to the Chairperson of the Inquiry Panel and no direction be given against the solicitor concerned under the Second Schedule to the Act; or
- (d) that the matter be adjourned for consideration or be referred back to the Tribunal for reconsideration or a further report.

(2) If the Council refers a matter back to an Investigative Tribunal under paragraph (1)(d), the Tribunal shall revert to the Council with its recommendation within 2 months from the date the notice to refer back the report is received by the Tribunal.

Notice

9. Every notice given by the Council under these Rules to a client, a solicitor or an Investigative Tribunal shall be in writing under the hand of the Director of the Society or any member of the Council designated by the Council for this purpose.

[G.N. Nos. S 310/98; S 665/2006]
