

REFERRALS TO THE DISCIPLINARY TRIBUNAL

When a solicitor is referred to the Disciplinary Tribunal by either the Complaints and Client Relations Committee or the Regulation of Practice Committee, the solicitor (and where appropriate, the complainant) will be notified of the referral by the committee Secretary. There is no need for the solicitor (or the complainant) to do anything further at this stage.

The Society's file is then transferred to the solicitor who is assigned to present the case before the Tribunal. An affidavit, which sets out in detail the case being made by the Society against the solicitor and which refers to the documents being relied upon, is sworn on behalf of the Society and the affidavit is then lodged with the Clerk of the Disciplinary Tribunal. **Once the affidavit is lodged, the referral may not be withdrawn without the permission of the Tribunal.**

The Clerk serves a copy of the affidavit on the solicitor within fourteen working days of the receipt of the affidavit by the Tribunal. The solicitor then has twenty one working days during which he may file an affidavit giving a full account of his response to the case against him. This is also served on the Society who may reply by further affidavit. A meeting of the Tribunal is then convened, which decides, on the basis of the information contained in the Affidavit/s, whether the facts disclose a prima facie case of misconduct. Neither the solicitor nor the Society's solicitor attends this prima facie meeting.

The Clerk notifies the solicitor and the Society of the Tribunal's prima facie decision. If there is no prima facie case, that is the end of the matter. If there is a prima facie case, a date will be fixed for an enquiry by the Tribunal, which will be notified to the parties by the Clerk.

The Enquiry

The Tribunal sits in panels of three, a solicitor chairman, a solicitor member and a lay member. The Tribunal which convenes for the enquiry, will be a different panel from the panel which made the prima facie decision. The solicitor is usually legally represented at the enquiry.

The affidavit/s will have been read in advance by the Tribunal who usually require a brief opening summary of the case against the solicitor.

The hearing is on sworn oral evidence and the Tribunal has the same powers as the High Court to issue subpoenas to witnesses, make an order of discovery etc.

Witnesses will then be called by both parties to give evidence and be available for cross examination. When all evidence has been heard together with closing submissions the Tribunal retire to consider their verdict. If there is a finding of misconduct, the Tribunal may either impose a sanction itself such as a fine up to €15,000 or, in more serious cases where the Tribunal form the view that the solicitor is not fit to be a member of the profession, they may make a recommendation which is then presented to the President of the High Court. **The Tribunal cannot however make an award of compensation to an aggrieved party even where there is a finding of misconduct.**

It is important to remember that the Tribunal and the Law Society play separate and distinct roles in any disciplinary inquiry. The Tribunal is completely autonomous and makes all decisions in relation to matters such as adjournments, applications for withdrawal etc. Its

members are appointed by the President of the High Court to whom the Tribunal is answerable. Communications with the Tribunal in relation to any case should be via the Clerk of the Tribunal. Communication with the Society should be with the solicitor who is assigned to the case.

N.B. This leaflet is not intended to be a fully comprehensive explanation of the procedures involved in bringing an application to the Tribunal. More detailed information is available from the Clerk to the Tribunal, The Friary, Bow Street, Dublin 7, Telephone: 8874776. www.distrib.ie