



3 June 2019

Dear Steve

Solicitors Disciplinary Tribunal's application to Legal Services Board for the approval of new Solicitors Rules

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Solicitors Disciplinary Tribunal's (SDT) rule change application. Our response to key aspects of the application is outlined below.

SDT to allow for the civil standard

The Panel warmly welcomes and strongly supports the SDT's move from the criminal standard of proof to the civil standard of proof.

Composition of Panels

In the proposed new rules, draft rule 9, the SDT suggests that the panel for the hearing of any application, should be composed of a majority of solicitors, and not lay members (two out of three members must be solicitors). The Panel disagrees with the SDT's position as set out in our initial consultation response.¹ In our view, the Panel for any such hearing should consist of a lay majority. This would support public confidence by addressing any perception of a structural bias in favour of solicitors.

Disclosure of publication

In the new proposed rule 35(9), the SDT suggests the possibility of making a direction prohibiting the disclosure or publication of "*specified documents or information relating to the proceedings; or any matter likely to lead to the identification of any person whom the Tribunal considers should not be identified.*" The Panel is still concerned that this appears to be a far reaching invitation to withhold the publication of information and/or identification of potential wrongdoers. In general, the Panel believes documents and information relating to the proceedings should be published in the absence of strong reasons to the contrary. This is crucial for transparency, consumer protection and public confidence in the Tribunal's work. However, we accept that there may be limited circumstances where information and/or identities of individuals should not be readily shared until the end of a matter or indeed where whistle-blowers need to be protected.

¹ LSCP, [Consultation on making of procedural rules in relation to applications to the Tribunal](#), October 2018.

However, the SDT should clearly define these scenarios and use exemptions only in these cases.

Agreed outcome proposals

The Panel welcomes the proposal to include a rule dealing with Agreed Outcomes (draft rule 25), which is in essence an early settlement without a full tribunal hearing. We believe that there is a strong public interest in resolving disputes as cost effectively and as quickly as possible. The SDT has proposed a 28 day time limit for the submission of an Agreed Outcome Proposal. The Panel agrees that 28 days should be sufficient for applicants to reach an agreement. It would however be useful for the SDT to clarify whether this is 28 working or calendar days, to avoid any confusion for applicants.

Protecting vulnerable witnesses

We would also like to reiterate our point² that the SDT should prevent cross-examination of an 'alleged victim' by the 'alleged perpetrator' personally. The SDT could appoint a representative to conduct the cross-examination.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.

Yours sincerely

Sarah Chambers



Chair

Legal Services Consumer Panel

² Ibid.