



Jersey

**THE LAW SOCIETY OF JERSEY
(DISCIPLINARY PROCEEDINGS) RULES
2018**

Official Consolidated Version

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THE LAW SOCIETY OF JERSEY (DISCIPLINARY PROCEEDINGS) RULES 2018

Contents

Rule

PART 1	4
PRELIMINARY	4
1 Interpretation	4
PART 2	4
ACTION ON RECEIPT OF COMPLAINTS	4
2 Action where <i>prima facie</i> case is established	4
3 Arrangements for presentation of a complaint	5
PART 3	5
ACTION UPON REFERENCE TO DISCIPLINARY COMMITTEE	5
4 Application	5
5 Service of documents	5
6 Address for service of disciplinary committee	6
7 Directions, dismissal of complaints etc.	6
PART 4	6
HEARING AND EVIDENCE	6
8 Hearing date	6
9 Rules of evidence	7
10 Written evidence	7
11 Representations by the Attorney General	7
12 Representation	8
13 Hearings	8
14 Proceedings under Article 23 of the Law on determination of complaint.....	8
PART 5	9
MISCELLANEOUS, CITATION ETC.	9
15 Record of proceedings.....	9
16 Repeal and Transitional Provisions.....	9

17	Citation	9
ENDNOTES		10
Table of Legislation History.....		10
Table of Endnote References		10



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THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 34 of [The Law Society of Jersey Law 2005](#), and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation

In these Rules, unless the context otherwise requires –

“complaint” means a complaint alleging that a practitioner or legal services body, as the case may be, is guilty of professional misconduct, and “complainant” shall be construed accordingly;

“hearing” means a final hearing by a disciplinary committee sitting pursuant to Article 22 of the Law to consider a complaint;

“Law” means [The Law Society of Jersey Law 2005](#);

“party” means the practitioner or legal services body, as the case may be and, unless the context requires otherwise, in relation to proceedings of a disciplinary committee, includes the case delegate;

“practitioner” means the practitioner against whom a complaint has been made;

“legal services body” means the legal services body against whom the complaint has been made.

PART 2

ACTION ON RECEIPT OF COMPLAINTS

2 Action where *prima facie* case is established

- (1) This Part applies where the requirements of Article 21(3)(e) of the Law have been met.

- (2) The President, in discharging his or her duty under Article 21(3)(f)(ii) of the Law, must ensure that a complaint is referred to a disciplinary committee promptly.
- (3) The President may appoint a member of the Law Society or such other person, whether or not an advocate or a solicitor, as the President shall think fit to assist the President to ensure that a complaint is referred to a disciplinary committee promptly.
- (4) The President or the member of the Law Society, or person, appointed under paragraph (3) may require particulars (including documentation or other supporting evidence) to be provided in such form and within such time, having regard to the requirement in paragraph (2), as the President or, as the case may be, the member or person may determine.
- (5) The reasonable costs of the member or person appointed under paragraph (3) shall be met out of funds provided by the Law Society.

3 Arrangements for presentation of a complaint

Before –

- (a) referring a complaint to a disciplinary committee in accordance with Article 21(3)(f)(ii) of the Law; and
- (b) appointing a case delegate in accordance with Article 21(3)(f)(iii) of the Law to present the complaint to the disciplinary committee,

the President must be satisfied that the arrangements for presenting the complaint are fair and reasonable for the practitioner or legal services body, as the case may be.

PART 3

ACTION UPON REFERENCE TO DISCIPLINARY COMMITTEE

4 Application

This Part applies when a complaint has been referred to a disciplinary committee.

5 Service of documents

- (1) Any application, statement, notice or other document to be served under these Rules shall be served –
 - (a) personally;
 - (b) by sending by ordinary post to the last known place of business or abode of the person to be served;
 - (c) by email or similar means of electronic communication where the parties agree to service by email or by such other similar means; or
 - (d) in such other manner as the disciplinary committee may direct.
- (2) Without prejudice to Article 7 of the [Interpretation \(Jersey\) Law 1954](#), a document sent by post to an address in Jersey shall, unless the contrary is proved, be deemed to have been served on the second day after the day on which it was posted, days on which there is no collection or delivery of letters excepted.

6 Address for service of disciplinary committee

The disciplinary committee must as soon as practicable notify –

- (a) the practitioner or the legal services body, as the case may be; and
- (b) the case delegate,

of the address for service of the disciplinary committee (including the name of the person to whom all communications in connection with the complaint are to be addressed).

7 Directions, dismissal of complaints etc.

- (1) The disciplinary committee may hold one or more interim hearings at which it may determine the sufficiency of evidence or issue any directions pursuant to Article 22(6) of the Law.
- (2) Without prejudice to paragraph (1), directions may be issued with regard to –
 - (a) documentation;
 - (b) inspection;
 - (c) statements (whether or not upon oath);
 - (d) skeleton arguments;
 - (e) witnesses;
 - (f) the place and time of any hearing.
- (3) The disciplinary committee may, at any time, of its own motion or on application, make an order on such terms as it thinks just to –
 - (a) adjourn any hearing;
 - (b) agree to the amendment of any complaint or allegation or the correction of any matter;
 - (c) make any directions which shall appear necessary or appropriate to secure the timely hearing of the matter.
- (4) The disciplinary committee may, at any time, of its own motion or on application, make an order on such terms as it thinks fit, dismissing the complaint for want of sufficient evidence.
- (5) Before making an order under paragraph (4) dismissing the complaint, the disciplinary committee must ensure that the complainant and the parties have had an opportunity to make representations, which may be made orally or in writing.
- (6) Upon making an order under paragraph (4) dismissing the complaint, the disciplinary committee must inform the complainant, the parties and the Attorney General in writing of its decision to make the order and the reasons for doing so.

PART 4**HEARING AND EVIDENCE****8 Hearing date**

- (1) Unless a disciplinary committee has made directions in respect of the hearing, it shall appoint a date for the hearing and shall give notice of the date to –
 - (a) the parties; and

- (b) the Attorney General.
- (2) The hearing shall not, unless the parties have agreed or the disciplinary committee has so ordered, take place sooner than the expiry of a period of 21 days beginning with the date of service of the notice appointing the date of the hearing.

9 Rules of evidence

The strict rules of evidence shall not apply at a hearing before a disciplinary committee unless the disciplinary committee directs otherwise.

10 Written evidence

- (1) A disciplinary committee may in its discretion either as to the whole case or as to any particular fact or facts proceed and act upon evidence given by statement in writing (whether or not on oath).
- (2) Every statement in writing upon which a party proposes to rely shall be filed with the disciplinary committee and served upon the other party not less than 14 days before the date fixed for the hearing, unless the disciplinary committee directs otherwise.
- (3) Any party on whom a statement has been served under paragraph (2) and who requires the attendance at the hearing of the witness in question shall, unless the disciplinary committee directs otherwise, no later than 7 days before the date of the hearing require, in writing, the other party to produce the witness at the hearing.
- (4) If no party requires the attendance of a witness in accordance with this Rule, the disciplinary committee may accept the statement in question in evidence.
- (5) If a witness who has been required to attend a hearing in accordance with this Rule fails to do so, the onus shall be on the party seeking to rely on the statement of that witness to show why it should be accepted in evidence.
- (6) If a party intends to call as a witness any person who has not given a statement, the party must, no later than 7 days before the date fixed for the hearing, notify the disciplinary committee and the other party of that intention and forthwith serve a copy of a written proof of evidence on the other party and lodge 4 copies of the proof with the disciplinary committee.
- (7) This Rule does not affect the powers under Article 22 of the Law of a disciplinary committee to take evidence.

11 Representations by the Attorney General

- (1) If the Attorney General intends to make representations to the disciplinary committee in accordance with Article 22(2)(d) of the Law, the disciplinary committee must be notified by the Attorney General no later than 7 days before the date fixed for the hearing.
- (2) Where the Attorney General gives notice to the disciplinary committee under paragraph (1), the disciplinary committee shall issue a direction to the parties to provide the Attorney General with copies of the documents referred to in Rule 10(2) and (6).

12 Representation

- (1) The practitioner or legal services body, as the case may be, may be represented before a disciplinary committee by an advocate or a solicitor.
- (2) The practitioner or legal services body, as the case may be, may at a hearing appear and be heard through a representative who, if not an advocate or solicitor, shall be a person approved by the disciplinary committee as a person appropriate to represent the practitioner or legal services body.
- (3) The practitioner or legal services body, as the case may be, wishing to appear and be heard through a representative other than an advocate or solicitor shall (unless the disciplinary committee directs otherwise), not less than 7 days before the date fixed for the hearing, state in writing to the disciplinary committee and to the case delegate –
 - (a) the name and address of the intended representative; and
 - (b) why he or she is considered appropriate to represent the practitioner or the legal services body.

13 Hearings

- (1) A hearing shall take place at such time and place as shall be considered by the disciplinary committee to be appropriate and convenient.
- (2) No person other than –
 - (a) the complainant;
 - (b) the practitioner or legal services body, as the case may be, and the representative of that party;
 - (c) the case delegate;
 - (d) the Attorney General;
 - (e) witnesses, whilst giving evidence; and
 - (f) any person appointed by or representing the Law Society,shall be present at a hearing without the consent of the disciplinary committee.
- (3) If the disciplinary committee is satisfied that notice of the hearing has been served on the parties in accordance with these Rules, it shall have power to hear and determine a complaint in the absence of either or both of the parties or the representative of the practitioner or legal services body (whether by agreement of the parties or otherwise).

14 Proceedings under Article 23 of the Law on determination of complaint

- (1) This Rule applies where the complaint proceedings have concluded and the disciplinary committee determines the matter in accordance with Article 23 of the Law.
- (2) If the disciplinary committee does not refer the complaint to the Attorney General, it shall make a finding as to whether the complaint is proved.
- (3) If the complaint is found to have been proved –
 - (a) the practitioner or legal services body, as the case may be, shall be entitled to make submissions by way of mitigation; and

- (b) the disciplinary committee shall issue or impose, as the case may be, one of the penalties specified in Article 23(2) of the Law.
- (4) The disciplinary committee may, subject to the requirements of Article 23(3) and (6) of the Law –
 - (a) hand down its decision at the conclusion of the hearing; or
 - (b) reserve its decision for later announcement.

PART 5

MISCELLANEOUS, CITATION ETC.

15 Record of proceedings

A note shall be taken of proceedings at any hearing and may be taken by electronic means.

16 Repeal and Transitional Provisions

- (1) The Law Society of Jersey (Disciplinary Proceedings) Rules 2010 are revoked.
- (2) Paragraph (1) does not affect the operation of the transitional provisions in Article 36 of the Law as amended by The Law Society of Jersey (Amendment No. 4) Law 2017.

17 Citation

These Rules may be cited as The Law Society of Jersey (Disciplinary Proceedings) Rules 2018.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
The Law Society of Jersey (Disciplinary Proceedings) Rules 2018 ¹	R&O.3/2018	2 August 2018 (R&O.70/2018 and R&O.75/2018)

Table of Endnote References

There are currently no endnote references