

SOLICITORS DISCIPLINARY TRIBUNAL

PROTOCOL FOR THE PRODUCTION AND USE OF ELECTRONIC BUNDLES

USING THE "CASELINES" SYSTEM

INTRODUCTION

1. The use of CaseLines as an evidentiary platform will be used at the Tribunal with effect from April 2019. This Protocol is intended to give guidance to Applicants, Appellants and Respondents appearing before the Solicitors Disciplinary Tribunal ("the Tribunal"). It is not intended to replace or vary The Solicitors (Disciplinary Proceedings) Rules 2007 ("SDPR") or the Solicitors Disciplinary Tribunal (Appeals and Amendment) Rules 2011.

APPLICATION

2. This Protocol applies to hearings of cases listed at the Tribunal which are deemed suitable for CaseLines, and is subject to review by the Tribunal from time to time.
3. 'Hearings' includes all appearances before the Tribunal whether for Case Management or Substantive Hearing.

FILING AND SERVICE OF DOCUMENTS

4. Parties will not be required to file hard copies of documents at the Tribunal, documents may be emailed to the Tribunals Enquiries mailbox whereupon the CMT will acknowledge receipt.
5. Parties will still be required to serve documents on the other parties
6. Uploading a document to CaseLines does not constitute service unless the Tribunal directs otherwise.

PERMISSIONS AND ACCESS

7. Once an application is issued by the Tribunal, the Tribunal's Case Management Team ("CMT") will be responsible for creating the Case on CaseLines to which the parties and/or their representatives will be invited.

8. Tribunal Staff and the Parties may only invite any relevant persons to the case. A relevant person is any person involved in the preparation or hearing of the case e.g. a legal representative, Counsel, a witness, an expert who has been instructed in the case.
9. When inviting a relevant person to the case it is the responsibility of the party inviting the person to ensure appropriate access is given and that access to the case is given for such period of time as is necessary. Once a person's involvement in the case has come to an end, their access to the case should be promptly withdrawn. Access to the case on CaseLines for all relevant persons will be removed after the substantive hearing has concluded.
10. Tribunal staff and the Parties will be permitted to access the Master Bundle, containing all documents uploaded to CaseLines, and any Hearing Bundles prepared. Tribunal Members, who will be invited by the CMT, will only be given access to any Hearing Bundle prepared for the hearing on which they are sitting.

EXPERT WITNESS

11. If an expert has been instructed on a case the party responsible for the instruction should firstly contact the CMT and request a separate expert bundle to be created.
12. Upon receipt of such a request the CMT will create the expert bundle to which the party making the request will be invited.
13. It is the responsibility of the party making the request to select documents from the Master Bundle that are necessary to be included in the Expert Bundle and to invite the Expert to the Expert Bundle in the case.
14. The contents of the Expert Bundle should be agreed between the parties and limited to only those documents for which it is strictly necessary for the Expert to see in order to prepare their evidence.
15. The Expert must not be given access to the Master Bundle, access to the Master Bundle is reserved to Tribunal Staff, the parties and their legal representatives.

CHANGE IN REPRESENTATION

16. In the event any party to a case instructs a legal representative or there is a change in their representation it will be the responsibility of that party to invite the legal representative to the case with the appropriate access and to ensure former representatives and anyone invited by them are removed from the case on CaseLines to prevent receipt of future notifications and access to case material. The "Audit" button in the Update Case tab will show who has been invited to a case and by whom.

ACCESSING CASELINES ON PORTABLE DEVICES

17. The parties and their legal representatives will be expected to provide their own portable devices to access CaseLines at the Tribunal. Wi-Fi will be available and the password for the Public Wi-Fi will be displayed in the Court Room and interview rooms. Witnesses and Members will be provided with a device to access CaseLines in the Court Room.
18. To access Caselines a person will need to register an account, and set up a username which can be their email address and a password. When registering a person may wish to select the hide email option to keep their email address private from anyone else using Caselines.
19. Once registered a person will need to log on to CaseLines with their username/email and password to access the cases to which they have been invited.

MASTER BUNDLE

20. The CMT will be responsible for creating the Master Bundle template when the Case is created on CaseLines.
21. All documents which any party intends to rely upon must be uploaded to the Master Bundle on CaseLines.
22. The parties will each be responsible for uploading their documents to the Master Bundle. The parties must ensure that, when documents upon which they intend to rely are filed at the Tribunal and served on another party, the documents are also uploaded to the Master Bundle.

CONTENTS OF THE MASTER BUNDLE

23. The documents in the Master Bundle shall be arranged in chronological order and divided into separate sections, each section to be separately paginated individually and consecutively using section indexes followed by Arabic numbering throughout (e.g. A1, A2 ... A78, A88, B1, B2 etc.) starting with page 1 at the start of each main section, as follows –

A: Application, Statement and Exhibits;

B: Respondent's Answer and Documents;

C: Applicant's Reply and Documents not previously filed;

D: Witness Statements;

E: Applications for an Order;

F: Directions/Memos/Orders/Decision Sheet;

G: Certificate of Readiness/Hearing Timetable/ Civil Evidence Act Notice ;

H: Costs and Statement of Means;

I: Skeleton Arguments;

J: Copies of all authorities relied on;

K: Medical Reports;

L: Character References;

M: Relevant Correspondence;

Z: Late Submissions

24. Not all Sections of the Master Bundle will be relevant for all Cases and if a Section does not apply it should be left empty and not removed.

RESPONSIBILITY FOR THE PREPARATION OF THE HEARING BUNDLE

25. A Hearing Bundle for the use of the Tribunal at any Case Management Hearing or Substantive Hearing shall be provided by the party in the position of Applicant or Appellant at the hearing or, if that person is unrepresented, the first listed Respondent who is represented ("the Bundle Owner").

26. Where all the parties are litigants in person none of them shall, unless the Tribunal otherwise directs, be obliged to provide an Electronic Hearing Bundle, but any Electronic

bundle which they choose to lodge must be prepared and lodged so as to comply with this protocol.

27. A separate Hearing Bundle must be prepared for each hearing. The Hearing Bundle shall contain a full index of the sections and documents. The Hearing Bundle shall contain information showing:
 - (a) the hearing date;
 - (b) the nature of the hearing e.g. Case Management Hearing, Substantive Hearing, Part Heard Substantive Hearing, Application for Proceedings to be held in private etc.
28. Where the nature of the hearing is such that a complete Hearing Bundle of all documents is unnecessary, the Hearing Bundle may comprise only those documents necessary for the hearing and the Hearing Bundle shall if reasonably practicable be in a form agreed by all parties. The Hearing Bundle must not contain Section Z of the Master Bundle.
29. The documents in any Hearing Bundle shall be arranged in chronological order and divided into separate sections, each section to be separately paginated individually and consecutively using section indexes followed by Arabic numbering throughout (e.g. A1, A2 ... A78, A88, B1, B2 etc.) starting with page 1 at the start of each main section.
30. Whenever new documents are uploaded to Case Lines or if changes to the case are made you will receive an email notification.

SENSITIVE OR CONFIDENTIAL MATERIAL

31. The starting point is that the Tribunal does not receive material that has not been served on all parties. The reason for this is that all parties are entitled to know what has been said by other parties in the proceedings in order that they can respond if they choose to. If any party wishes the Tribunal to depart from that position then an application will need to be made to the Tribunal for leave to file and rely on a document which has not been disclosed to all parties.
32. If the document in question is to be referred to in open Court during the substantive hearing then any party making such an application may wish to address that issue.

33. If an Order is made by the Tribunal granting permission for a party not to disclose a document to the other party/parties (this would be an exceptional situation) the document should not be uploaded to CaseLines but filed with the Tribunal and served on any other party who should receive the document. The CMT will arrange for the document to be sent to the Division and Clerk.

CHARACTER REFERENCES

34. The Respondent may produce evidence of good character in the form of character references or by witness evidence.
35. The Respondent's reasons for filing the character references are important and will determine whether they should be included in the Hearing Bundle viewed by the Division in advance of the hearing. In cases involving dishonesty such references should be included in Section B of the Master Bundle.
36. If the Respondent's reason for filing the character references are for the purposes of mitigation only, they should not be included in the Hearing Bundle prior to the hearing (unless the Tribunal has been asked for and given permission for them to be included or they formed part of the exhibits to the Rule 5 filed at the commencement of the proceedings in which case they should be included in Section A or B of the Master Bundle as appropriate). The character references may be uploaded to the Master Bundle in Section L "Character References" which the Tribunal Members will not have access to. When creating the Hearing Bundle for the hearing, the documents in Section L should be excluded by selecting the option to 'Exclude Documents by default' for this section of the bundle. After the Tribunal has reached its findings as to whether any or all of the allegations have been proved, the character references can be added to the Hearing Bundle from the Master Bundle by selecting the option to 'Include Documents by default' for this section. The Tribunal Members will then be able to view the character references. Further information regarding how to create and add documents to a hearing bundle is included in the Solutions and Quick Reference Guides on the SDT dedicated CaseLines website.

37. If dishonesty is alleged and the Respondent wishes the Tribunal to take account of character references in reaching its findings (See Donkin v Law Society [2007] EWHC 729 (Admin)) the character references may be included in the Hearing Bundle prior to the hearing.

TIMETABLE FOR PREPARING THE HEARING BUNDLE

38. The Hearing Bundle shall be prepared **not less than 14 days** before the hearing, or at such other time as may be specified by the Tribunal.

LATE SUBMISSIONS

39. Documents filed at the Tribunal after the hearing bundle has been prepared must be uploaded to Section Z of the **Master Bundle**. The party seeking to rely on such document is responsible for notifying the Tribunal of the late Submission and for making any necessary applications to the Tribunal for those documents to be produced in evidence.
40. If the Tribunal Orders that such a document may be produced in evidence then the Bundle Owner will upload those documents to the appropriate section of the **Hearing Bundle** and the pagination for the inserted late submission shall follow the standard sub-numbering scheme (e.g. 10a, 10b, 10c etc.).
41. Documents in paper format produced at the Hearing that cannot be uploaded into the Hearing Bundle immediately, may, with permission of the Tribunal, be presented on paper. This is expected to be a rare circumstance.
42. The party wishing to produce the hard copy document(s) at the hearing must ensure that 4 copies are available for the Tribunal, 1 for the witness and sufficient copies are produced for the other parties to the proceedings. The Tribunal will not routinely print or copy these documents. These documents shall subsequently be provided in electronic format and uploaded into the Hearing Bundle, by the party seeking to rely on them, in good time and no later than 2 working days after the hearing.

COMMENTS FUNCTION

43. Any person invited to a case may add their own private comments to any of the documents which will remain private and not accessible by anyone else invited to CaseLines.
44. Any person invited to a case may form a share group with anyone else invited to the case and share comments within that group only. Currently a person may only be part of one share group for each case.
45. The widely shared comment function has been disabled.

DOWNLOADING BUNDLES

46. Any person invited to the case may download a version of either the Master Bundle or any of the Hearing Bundles to which they have access and which have been prepared in the case.
47. The parties and their representatives should download the Hearing Bundle the evening before the hearing.

PRESENTATION OF HEARING BUNDLE

48. During the Hearing any party may select to “Start Presentation” to direct the Tribunal to particular documents. Members and the parties may elect to “follow presenter” and will be automatically directed to pages in the Hearing Bundle as directed by the Presenter.
49. Wall Monitors or Screens will not be used to display the hearing bundle.

DATA PROTECTION

50. CaseLines is a secure digital court platform. It is a collaborative system designed to facilitate the processing of data necessary for the administration of justice. Case-related data previously processed in hard copy and/or electronically will in suitable cases be processed via the CaseLines platform as set out in this protocol. The platform will inevitably contain highly sensitive personal data. The protection of personal data is the responsibility of every user of the system. The SDT complies with its obligations under the Data Protection Act 2018. Every person must ensure that their use of CaseLines is limited to the purpose for

which access was granted to them and is in accordance with the Data Protection Act 2018. A person must not share information with others except as strictly necessary for the purpose for which the information was shared with them (and a person must ensure those with whom they share the information are aware of these data protection obligations).

COMPLIANCE WITH THE PROTOCOL

51. Case Lines is intended to reduce the time, effort and cost involved for users and the Tribunal itself in the preparation, collaboration and courtroom presentation of legal evidence bundles. Parties are expected to comply with the protocol at all times. If a party fails to comply with any part of this Protocol there may be implications for the time and cost of preparing the case and unnecessary delay in the determination of the proceedings. In these circumstances, it will be open to the Tribunal at the hearing to take these factors into account in considering what, if any costs order should be made either at the end of a case or during the proceedings.

Signed

Edward Nally
President of the Solicitors Disciplinary Tribunal
On Behalf of the SDT Policy Committee
Dated 01.04.2019