

Disciplinary Tribunal

Complaint Guidelines

WHAT SHOULD I DO WHEN I HAVE A COMPLAINT?

Raise the matter at once with your Attorney, preferably in writing. Most minor problems can be resolved quickly if they are raised early. The longer you wait to raise your complaint, the more difficult it will be to investigate and to establish exactly what happened.

HOW DO I KNOW WHETHER I HAVE A COMPLAINT?

You may seek the advice of an independent Attorney-at-law to determine whether you have a valid complaint. An independent Attorney-at-law would be useful to provide you with an impartial assessment of your Attorney's conduct. If you do not have such an opportunity you should contact the offices of the ANGUILLA BAR ASSOCIATION.

THE DUTIES OF AN ATTORNEY AT LAW

Schedule 5 of the Legal Profession Act contains the Code of Ethics. It contains a list of the Rules that govern professional conduct and practice for lawyers.

HOW TO BEGIN DISCIPLINARY PROCEEDINGS

At the offices of the Disciplinary Tribunal/ ANGUILLA BAR ASSOCIATION you will be given two forms (these are also available on the website). Form 1 is the formal application to the Disciplinary Tribunal. Form 2 is an affidavit which must be sworn by you before a Commissioner of Affidavits/Notary Public. After the forms are correctly filled out and sworn you will file them with the Office of the Disciplinary Tribunal.

WHO MAY COMPLAIN

Every client has a right to complain. Where the Attorney has represented more than one person, each of those persons may either separately or jointly file the complaint.

Persons who are not clients may, with the leave of the Disciplinary Tribunal, also issue complaints. The key issue is whether the Attorney has committed an act of professional misconduct and if you were not a client, but nonetheless a person directly affected by the alleged professional misconduct, you may proceed to file the complaint. At the hearing, you will need to seek permission to proceed with the complaint.

COMPLETING THE FORMS CORRECTLY

You should take care in filling out the forms, especially Form 2, (the affidavit). In the affidavit you are to state the grounds of your complaint. Choose your language carefully. It would be ideal if you consult an independent Attorney-at-law for help in correctly filling out the form and supporting affidavit. The grounds of your complaint must contain an accurate statement of your specific complaint. Where possible, you should refer to the specific paragraph or paragraphs of the Code of Ethics which you allege your Attorney has breached. Avoid irrelevant material and concentrate on exactly what your Attorney did or did not do that forms the basis of your complaint. It is important also to briefly state what financial or other losses you have suffered as a result of the alleged professional misconduct.

PROCEEDINGS BEFORE THE HEARING

The Tribunal will first examine Forms 1 and 2 to determine whether you have a prima facie case against the Attorney. (This means a case which adequately makes out a complaint for professional misconduct). If necessary, the Tribunal will request you to provide further or better particulars of your complaint. Before provision of sufficient particulars of your complaint, the Tribunal will decide whether the Attorney should be called upon to answer your complaint. If the

Tribunal decides to call upon the Attorney to answer your complaint, the Secretary will notify you of a date and place of hearing.

The Attorney may answer your complaint in writing by filing an affidavit. A copy of the Attorney's affidavit will be sent to you by the Secretary of the Tribunal. Please read the Attorney's affidavit carefully. If there are any new matters raised which you need to answer, or any documents that you wish to introduce to contradict the Attorney's affidavit, then you should also file an affidavit in reply.

PROCEEDINGS AT THE HEARING

The Tribunal will explain your role and function, in everyday language, and assist you to give your statement in support of the complaint. You should attend the hearing with all the documents relating to the complaint or your dealings with the Attorney. If you have any witnesses, you should also ask them to attend. The hearings are conducted as a trial, with each side being entitled to ask questions of the other side, and to fully present their version of the events. You may have an attorney represent you at the hearing.

DECISION OF THE TRIBUNAL

At the end of the hearing the Tribunal will give its decision. If the Attorney has been found guilty of professional misconduct the Tribunal has the power to:

1. Impose a fine in a sum that the Tribunal thinks proper
2. Reprimand the legal practitioner to whom the complaint relates
3. Make an order as to costs for the legal practitioner to pay the complainant a sum by way of compensation and reimbursement.
4. In serious cases, the Tribunal can also (a) suspend the legal practitioner from practice or (b) strike off the Roll the name of the legal practitioner to whom the complaint relates.

OTHER CIVIL PROCEEDINGS

If an Attorney has caused you financial loss, you may be entitled to bring civil proceedings in the High Court. In the event of fraudulent or criminal acts you may refer such acts to the Attorney General. If you have suffered serious loss as a result of professional misconduct it is wise to seek legal advice as to the remedies available to you in civil and/or criminal proceedings. It is best that you seek legal advice as soon as possible as certain limitation periods may apply.