

Terms of Reference for the Disciplinary Panel

These Terms of Reference should be read in conjunction with the Law Society Act, Rules and any Benchers policies relating to Committees.

Disciplinary Panel – Terms of Reference	
Type	Statutory
Mandate	<ul style="list-style-type: none"> • The Disciplinary Panel carries out the responsibilities assigned to it under Part II of the Act, and in accordance with the Law Society’s Rules and professional responsibility process • Adjudication tribunals are appointed from the Disciplinary Panel by the Chair and they decide whether a respondent is guilty or not guilty of conduct deserving of sanction; or whether there has been a failure to comply with a decision or an order • The Chair of the Disciplinary Panel shall appoint a member of an Adjudication Tribunal to chair that tribunal
Responsibilities	<ul style="list-style-type: none"> • An Adjudication Tribunal’s powers for disposition are specifically enumerated in the Act • An Adjudication Tribunal has the powers, privileges and immunities that are conferred on a commissioner appointed under the <i>Public Inquires Act, 2006</i>, as amended, including the authority to issue a subpoena or order the production of documents <p>Act, s. 42(9), 49(2), 50(1), (2), (3), 53(1), (3), 54(5)</p> <p>Rules, 9.12</p>
Composition	<ul style="list-style-type: none"> • The Disciplinary Panel is appointed pursuant to Section 42 of the Act, and is comprised of Law Society members and lay representatives, appointed by the Minister of Justice • Any vacancies may be filled by the Committee • For the purpose of dealing with complaints referred and applications made to the Disciplinary Panel, the Chair appoints an Adjudication Tribunal, consisting of two (2) members and one (1) lay representative to hear the matter • Except for the Chair, persons appointed to the Panel are appointed for a term of 3 years and may be reappointed • Members who have served for a total of six years are ineligible to be reappointed to that committee until a period of one year

	<p>has expired (Rule 2.16)</p> <p>Act, s. 41(e), 42(4), (5), (6), (7), (8), 46(1), (2)</p> <p>Rules, 2.16(1), (6), (7), (8)</p>
<p>Committee Chair/Vice Chair</p>	<ul style="list-style-type: none"> • The Chair is an honorary Benchers appointed by Benchers or his or her designate • Chairs should be appointed/reappointed on an annual basis <p>Act, s. 42(4)</p> <p>Rules, s. 9.01(b)</p>
<p>Procedures and Work Product</p>	<ul style="list-style-type: none"> • A complaint is filed by the Vice-President and heard by an adjudication tribunal in public, unless the tribunal determines otherwise. Act s. 47, 48, 49(1) • The adjudication tribunal may conduct a pre-hearing conference. The procedure that will govern the hearing of a complaint will be determined by the tribunal following the entry of the respondent’s plea. • The Law Society may make application to the Disciplinary Panel where a respondent has failed to comply with a decision or an order. Act s. 53(1), (2) • A respondent may apply for reinstatement and readmission: Act s. 54 (1), (2), (3), (4) Rules, 9.09, 9.10, 9.11, 9.16, 9.17, 9.18 • Where there is a guilty plea, or the tribunal decides the respondent is guilty or not guilty, the tribunal shall file a decision or order with the Society and provide a copy to the complainant, the respondent and the respondent’s partners and employers, any other governing body of the legal profession in Canada of which the respondent is a member, and the Minister • Where a respondent is disbarred or suspended from practice or ordered to refrain from practicing in respect of certain areas of law, a notice to that effect shall be provided to the Courts, to any other governing body of the legal profession in Canada, to members and to the public • Tribunal decisions are open, transparent and accessible to the public within the scope imposed by the tribunal’s order, and

	<p>the parameters of the <u>Act</u> and LSNL policies respecting publication</p> <p><u>Act</u>, s. 51</p> <p><u>Rules</u>, 9.28</p> <ul style="list-style-type: none"> • Persons appointed to an adjudication tribunal may receive remuneration and reimbursement for travel and other expenses in accordance with LSNL guidelines and policies • The Act authorizes the imposition of fines and costs, and the payment of same is subject to tribunal orders and LSNL rules and policies <p><u>Act</u>, 42(8), 49(2)(k), (l), (3), 50(2)(a), 50(3)(k), (l), (4), 54(5), 55, 55.1 Rule 9.15 Remuneration of Adjudication Tribunal Members, Executive Committee Minutes, dated 28 January 2014 Honorariums Paid to Lay Members</p>
Reporting	<ul style="list-style-type: none"> • In performing regulatory functions the Committee is independent from Benchers • Benchers are informed by staff about the work of the Committee
Staff Support	<ul style="list-style-type: none"> • The Legal Director