



The Academy of Experts

Complaint Form (ADR)

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What The Academy of Experts can do if you have a Complaint.

Introduction

These notes provide a general guide only to The Academy's Disciplinary Procedures and are not intended to be a detailed explanation of The Academy's disciplinary powers and duties. They are for use in connection with complaints against a member whilst acting as a Mediator or ADR Practitioner¹.

What can I complain about?

The Academy of Experts will only look into complaints about aspects of the behaviour of one its Members (meaning membership of The Academy of Experts of any grade), which indicate that a Member might be liable to a charge of improper conduct. If the complaint is about the Member's professional work the complaint should be made to the Member's primary professional association or trade body (for example – General Medical Council, Royal Institution of Chartered Surveyors, Institute of Chartered Accountants in England and Wales etc). If you have a solicitor it would be sensible to discuss with him whether he agrees with your complaint and, if so, whether he can resolve it directly with the Member.

If The Academy of Experts decides that your complaint indicates that a charge of improper conduct on the part of the Member would be appropriate, it will investigate the matter. If The Academy then considers that there are reasonable grounds for proceeding, it will bring a charge of improper conduct against the Member under its disciplinary procedure as set out on page 4.

Is there a time limit?

Normally you should complain to us within 6 months of the complaint arising. We will only look at complaints which arrive later than that date if they are particularly serious or if there is a good reason for the delay.

Does it cost anything?

The Academy of Experts does not charge for this service.

Improper Conduct

Improper conduct is a serious matter involving

- a breach of the obligations imposed upon a Mediator or ADR Practitioner including any rules or any order of any Court or a breach of any of The Academy's own published codes.
- being subject to disciplinary action by a professional body, as a member of that body
- being convicted of a serious criminal offence,
- a finding of fraud or dishonesty being made against a Member by any court of competent jurisdiction,
- the Member having committed an act of bankruptcy or a breach of the proper standards of a Member as a, Mediator, Arbitrator, ADR Practitioner or in exercising his profession, trade or calling or having otherwise behaved in such a way as to bring discredit on himself or The Academy or his profession, trade or calling.

¹ There is a separate form for use where the complaint concerns work as an Expert Witness.

What can't The Academy of Experts deal with?

The Academy of Experts cannot consider complaints against those who are not members of The Academy of Experts.

We can only investigate complaints about solicitors when they are acting a Mediator or ADR Practitioner. Other complaints about solicitors should be sent to the Solicitors Regulation Authority The Cube, 199 Wharfedale Street, Birmingham, B1 1RN - www.sra.org.uk.

We can only investigate complaints about barristers when they are acting as a Mediator or ADR Practitioner. Other complaints about barristers should be sent to The Complaints Department, Bar Standards Board, 289-293 High Holborn, London, WC1V 7HZ - www.barstandardsboard.org.uk.

The Academy of Experts will not normally look into complaints:

- about a Mediator or ADR Practitioner's private life or non-professional work,
- where the court case is continuing or there is an appeal in progress until, the case and any appeal has concluded,
- where the complaint concerns the Mediator or ADR Practitioner's work in his primary profession.

The Academy of Experts cannot investigate claims of negligence or decide whether a Member has been negligent. If you think one of our Members has been negligent you should seek advice from an independent legal adviser.

How The Procedure Works

The complaints procedure is overseen by the Chairman of The Academy's Investigation Committee ("CIC"). He might not be a practising Mediator and has complete independence from The Academy of Experts in the decisions that he makes. He is able to investigate and dismiss complaints if he does not believe that they are justified.

The CIC may ask the Member, solicitor or other witnesses for their comments on a complaint. The Member's comments will always be sent to the complainant. The CIC can also ask for technical advice from Experts on legal issues connected with the complaint.

If the Investigation Committee considers that the complaint does not amount to improper conduct, it will dismiss it. If the Investigation Committee finds that there is a prima facie case of improper conduct then it may either:

- (a) offer the Member a consent order, if the matter does not warrant a serious penalty such as expulsion from The Academy, or
- (b) if the matter is sufficiently serious, it will request the Secretary General of The Academy to convene a Disciplinary Tribunal whose Members will be drawn from The Academy's Disciplinary Panel. The Disciplinary Panel includes all Fellows of The Academy and also lay persons who may also be lawyers of at least 7 years' standing. A Disciplinary Tribunal will consist of three persons selected from the Disciplinary Panel, one of whom shall be a lawyer.

Disciplinary Tribunal

If the Disciplinary Tribunal finds that a charge of improper conduct has been established it has a range of penalties that can be imposed on the Member. These extend from a reprimand to expulsion from The Academy.

Appeals And Reviews

The Disciplinary Tribunal has the power to re-open and review its own decisions providing the Member concerned requests a review within 14 days of the decision.

If the Member is still dissatisfied with the penalty imposed by the Tribunal, he can appeal against the Tribunal's decision to an Appeal Tribunal of The Academy, but only with regard to the penalty imposed, providing he lodges an Appeal within 28 days of the Tribunal's decision.

A complainant cannot appeal the decisions of the Investigation Committee or the Disciplinary Tribunal. The Chairman of the Investigation Committee may be prepared to ask the Investigation Committee to look at the matter again if the complainant has some additional evidence in support of their complaint that has not previously been supplied.

Disciplinary Decisions Against Mediators and ADR Practitioners

The Academy of Experts maintains a record, which is open to public inspection of the disciplinary decisions that either the Investigation Committee, the Disciplinary Tribunal or an Appeal Tribunal of The Academy has made against one of its Members once any review or appeal procedure has been concluded.

For further information, contact the Secretary General of The Academy of Experts:

investigations@academy-experts.org.

This form

This form [Complaints Form (ADR)] should be used for any complaint against a Mediator, Conciliator, Expert Determiner, Neutral Evaluator or other ADR Practitioner. For ease of reference this form refers to all categories as “practitioner.”

Complaint Form

Please read the Notes for Guidance on pages 12-13 before completing this form. Please complete this form in black ink and in block capitals or typescript. Do not write on the back of the form - include additional sheets if necessary.

SECTION 1 – PERSONAL DETAILS

1. Your Name: Mr Mrs Ms Miss Other _____

Forename:

Surname:

ADDRESS:
(including postcode)

Telephone Number: Work:

Home:

Which number would you prefer us to use?

Work: Home:

Is there an answer phone we can leave a message on?

Yes: No:

2: Are you complaining on behalf of somebody else: No: Please go to section 2 (page 8)
Yes: Please complete this section

Complainant's Name: Mr Mrs Ms Miss Other

Forename:

Surname:

ADDRESS:
(including postcode)

Telephone numbers
Work:
Home:

In dealing with this complaint should we write or copy correspondence to:

You:

The person for whom you are complaining:

Has the person on whose behalf you are complaining authorized you to complain?
(please enclose letter of authority)

Yes:

No:

SECTION 2 – THE PRACTITIONER’S DETAILS

3. NAME OF THE PRACTITIONER YOU WISH TO COMPLAIN ABOUT

Forename: Surname:

Discipline:

ADDRESS:
(if known)

In what capacity was the Practitioner acting (eg Mediator, Expert Determiner:)?

SECTION 3 – DETAILS OF YOUR COMPLAINT

4. Is your complaint about:

- The Practitioner’s conduct (eg breach of confidentiality)
- Work done by the Practitioner
- The Practitioner’s conduct outside professional work

4a Is this matter currently subject to any legal proceedings? Yes:
No:

4b. Is this matter currently subject to any other complaints procedure? Yes:
No:

If yes to either question then please give full details.

5. Who appointed the Practitioner?

Name of Organisation:

Address of Organisation:

Telephone number:

Name of person dealing with matter:

Reference:

6. Have you raised this complaint with:

The Practitioner concerned

Yes:

No:

Your own solicitor

Yes:

No:

If you have raised the complaint with the Practitioner and/or the solicitor, please say what the result was:
If you have not done so, please give your reasons

7. When did the actions about which you are complaining take place?

If the complaint arose more than six months ago please say why there has been a delay in making the complaint:

8. Please set out briefly your complaint against the Practitioner. You should read the notes for guidance on pages 12-13 before completing this section. If necessary please use an extra sheet.

9. Please say how you would like this complaint resolved:

Explanation

Refund of fees

Disciplinary Action

Other (please state below)

Apology

SECTION 4 – OTHER INFORMATION

10. Please set out the names and addresses of any other people whom you believe may be able to help us in our investigations and a note of their connection with the case or the Practitioner.

11. Are you enclosing additional sheets of paper?

No:
Yes: How many?

12. Please enclose any copies of other relevant documents and list them below – **please do not send originals.**

13. Have you written to The Academy of Experts about this matter before?

No:
Yes:

If so, please give date of your letter: //

14. Have you complained to The Academy of Experts before about any other matter?

No:
Yes:

If so, please give details if known



When completed please sign and date this form. Then send it to:

Complaints
The Academy of Experts
3 Gray's Inn Square
London
WC1R 5AH

Signed: _____

Date: _____

COMPLAINTS FORM: NOTES FOR GUIDANCE

Please read these notes before completing the complaints form.

Please complete the form in black ink and in block capitals or in typescript. The form is likely to be photocopied a number of times and this will ensure that it is reproduced clearly.

Questions 1 & 2: Personal Details

We need your name and address. If you are complaining on behalf of somebody else, we need their name and address too. **We also need to have a letter from them showing that they consent to you making the complaint for them.** We do not usually contact you by telephone but a number, for use in normal office hours, can be useful.

Please notify us of any change of address as soon as possible.

We will acknowledge all letters we receive and will try to do so within one week of receipt. Please do not telephone us to find out whether or not we have received your letter until at least ten working days have passed since you posted it.

Question 3: The Member's Details

It is **essential** that you provide the name of the Practitioner who dealt with your case. Those who instructed the Practitioner should be able to give you this (and, indeed, the address). **We cannot look into any complaint unless we have or can find out the name of the Practitioner** . Even if you do not have the Practitioner's full address, it is helpful if you can tell us what you know about where he/she practises.

Where you are complaining about more than one Practitioner you should fill in a separate form for each Practitioner unless your complaint is exactly the same for each of them.

Question 5: The Appointer's Details

We will normally write to those who appointed the Practitioner, sending a copy of the complaint and any enclosures and asking for comments.

Question 6: Raising the Complaint Directly with the Practitioner or Solicitor

Many complaints can be resolved at an early stage if you tell the Practitioner or your solicitor that you are unhappy with the service that has been provided. In less serious cases, you may find it helpful to ask your solicitor to take up the issue directly with the Practitioner. If your complaint cannot be resolved in this way, however, you should then complain to us. If you have raised your complaint with the Practitioner and/or the solicitor it would be helpful if you could provide copies of the relevant correspondence.

Question 7: Delay

It can be difficult to establish facts if a lot of time has passed since your complaint arose. You should make your complaint as soon as possible.

If the complaint is received more than six months after the events from which it arose took place, then your complaint may well be dismissed unless there is a good reason for the delay.

It will not normally be enough simply to say that you were unaware of the existence of the complaints system.

Question 8: Details of the Complaint

Please set out briefly what you wish to complain about. You should remember that it must be something that a Practitioner has done or omitted to do. **We cannot deal with complaints against solicitors, barristers, judges, the police or court officials unless they are members of The Academy and were acting as an ADR Practitioner.** The introduction "What The Academy of Experts Can Do" gives details of the sorts of issues that give rise to complaints. We do not need a detailed history of the case but it will help us to deal with the complaint speedily if you state:

- * what the case was about;
- * when the complaint arose;
- * what the Practitioner did or did not do;
- * why you believe this was wrong.

Question 9: Resolution of the Complaint

The introduction, "What The Academy of Experts Can Do if you have a complaint" sets out the ways in which we can deal with complaints. Although it may not affect the final decision, it would be helpful to know how you would like the matter resolved.

Question 10: Other Information

If there were any witnesses who can support your complaint or who might be able to help us in other ways, please let us have their names and addresses and the part they played. We will not necessarily approach all those whom you may name.

Question 11: Additional Sheets

If the form does not provide enough space for you to set out details of your complaint, please enclose additional sheets of paper. You should tell us how many you have enclosed so that we can be sure we have received them all. **Please write on only one side of each sheet to allow better copying.**

Question 12: Enclosures

It is helpful if you can provide documents to support your complaint. **Please do not send original documents, only photocopies** as we accept no responsibility if they are lost.

Please only include documents which are relevant and which deal directly with the Practitioner's conduct. It helps if you list the documents you are enclosing so that we can check that they arrive safely.

Questions 13-14

It is helpful to know if you have contacted The Academy of Experts before to so that we can check our records for other documentation that we may have.

Finally, please sign and date the form.