



PRACTICE DIRECTION No. 5 of 2022
(GCR O.1 r.12 and GCR O.67 Part II)

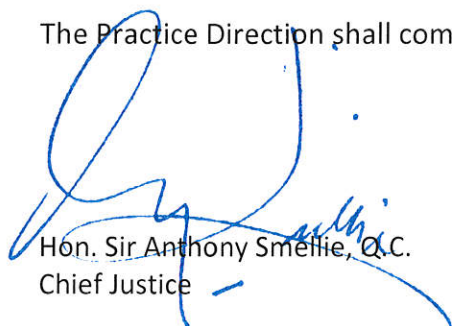
**PROCEDURE RELATING TO THE COMMENCEMENT AND MANAGEMENT OF
PROCEEDINGS UNDER SECTION 7 OF THE LEGAL PRACTITIONERS ACT (2022
REVISION)**

1. By virtue of section 7(1) of the Legal Practitioners Act (“LPA”), Judges of the Grand Court are vested with the authority, for reasonable cause shown, to suspend an attorney-at-law from practicing or to order that his or her name be struck off the Court Roll.
2. A judge charged with the responsibility to determine a disciplinary complaint may not be the same person who determines whether or not disciplinary charges are to be instituted. See in this regard, the judgment of the Court of Appeal in *Attorney “A” v The Attorney General CICA (Civil) Appeal No. 13 of 2021 (“LPDC 1 of 2017”) 27 October 2021*.
3. This Practice Direction explains the procedure which will be engaged when a disciplinary complaint is made against an attorney. The procedure will involve the Chief Justice as head of the Judiciary and the Attorney General (the latter as *ex officio* head of the legal profession of the Cayman Islands pursuant to section 25 of the Grand Court Act (2015 Revision) and as representative of the Crown in the Courts in all matters in which rights of a public character come into question).
4. When a complaint about the conduct of an attorney is received, whether from a judge, a client of that attorney, another attorney or other third party, it shall be referred to the Chief Justice. The Chief Justice will consult with the Attorney General and consider whether, *prima facie*, the conduct described in the complaint may warrant the commencement of proceedings under section 7 of the LPA in the public interest. If, after consultation with the Attorney General, the Chief Justice considers that there is no case to answer this will be communicated to the complainant and no further steps will be taken.

5. If the Chief Justice, after consultation with the Attorney General, is of the view that there is a *prima facie* case against the attorney, the Chief Justice (if necessary with the assistance of the Attorney General or his designate) will consider the charges to be made against the attorney and will afford the attorney an opportunity to explain in writing within 14 days (or such longer period as the Chief Justice shall provide) why the charge(s) should not be pursued.
6. After further consultation with the Attorney General if the Chief Justice remains of the view that charge(s) should proceed he will ask the Solicitor General to draft a Notice of Originating Motion setting out the charges and the basis therefor.
7. The Notice of Originating Motion will not be placed on the Register of Writs and other Originating Process open to public inspection and will instead be placed on the Restricted Register of Writs and Other Originating Processes. While the Notice of Originating Motion is on the Restricted Register it will be open to public inspection only with the leave of the Court.
8. The Notice of Originating Motion will be allocated to a judge other than the Chief Justice.
9. The Solicitor General will cause the Notice of Originating Motion to be filed and served on the subject attorney and the Attorney General and the matter shall then proceed in accordance with the Grand Court Rules.
10. Proceedings under section 7 of the Legal Practitioners Act (2022 Revision) will be heard in private, and pleadings and documents anonymized, until the Court otherwise orders.
11. The burden and standard of proof shall be the same as in criminal proceedings.
12. If an order is made suspending an attorney, or striking an attorney's name from the Roll, the Court shall direct the date on which the proceedings in which the order is made shall cease to be private. On this date, or as soon as reasonably practicable thereafter, the Clerk of the Court shall place the Notice of Originating Motion on the Register of Writs and Originating Process and the judgment on the Register of Judgments.
13. Throughout the proceedings the Attorney General or Solicitor General or a designate shall act as *amicus curiae* in his capacity as custodian of the public interest and *ex officio* head of the legal profession under section 25 of the Grand Court Act (2015 Revision).

14. EFFECTIVE DATE

The Practice Direction shall come into effect on the 31 August 2022



Hon. Sir Anthony Smellie, Q.C.
Chief Justice

15 August 2022