

Joint Tribunals – FAQs for Solicitors

❖ Are there any fees incurred in a Joint Tribunal?

There are no fees incurred by either party to instigate or be part of a Joint Tribunal. The only “cost” is the Award of the Joint Tribunal, which may be for the full or part of the disputed fees. Interest may or may not be added. Payment needs to be made within 14 days of notification of the decision. The Joint Tribunal is also able to make an award that no fees are payable.

❖ What happens if I do not agree to be bound to a Joint Tribunal?

You have two options:

- settle the fee dispute directly with the other party involved – perhaps by way of compromise or ADR
- refuse to be bound and allow the Bar Council to proceed with the matter under the Withdrawal of Credit Scheme.

❖ What happen when the matter proceeds by way of Withdrawal of Credit?

If the solicitor refuses to agree to the referral to a Joint Tribunal, the barrister can then pursue a complaint under the Withdrawal of Credit Scheme.

When the Bar Council receives a complaint under the Withdrawal of Credit Scheme, they write to the solicitors and requesting payment. What happens next depends upon the solicitor's response and whether the Bar Council have had other complaints of non-payment against the same solicitor. If there are a few complaints of non-payment against the same solicitor and the solicitor has not paid for no good reason, then the Bar Council will issue a direction to all barristers forbidding them to take work from that particular solicitor on credit. This means that if such solicitor wishes to instruct counsel in the future, he or she must pay Counsel's fees in advance. When such a direction is made, the Bar Council makes a complaint to the SRA on the grounds that, by virtue of the fact that the Bar Council had no reasonable alternative but to issue the direction to withdraw credit, that solicitor has caused the public to lose confidence in the solicitors' profession.

❖ If a barrister refuses to be bound, there are 2 possible scenarios:

- if the solicitor has challenged the barrister's fees within 3 months of the first fee note (to which the outstanding fees refer) or within 1 month of the first reminder letter, then the Bar Council will not pursue a complaint made by the barrister under the Withdrawal of Credit Scheme until the solicitor has first had the opportunity of referring the fees to a joint tribunal. So, if the barrister refuses to be bound and the solicitor has challenged the fees within those time provisions, then that's it. The Bar Council will do nothing to pursue the fees.

- where the solicitor has challenged the fees outside those time periods, the barrister is at liberty to refuse to agree to a joint tribunal and insist on making a complaint to the Bar Council under the Withdrawal of Credit Scheme, and the Bar Council would take action on that complaint.

❖ **What if i agree to be bound but need more time to respond (to the timescales set out in the Joint Tribunal Standing Orders)?**

Let the Law Society know that you require an extension of time and the reasons why. The Law Society will inform the Bar Council that an extension has been requested, and the reasons why and, if they are also in agreement, an extension will be granted.

❖ **What happens if the Joint Tribunal has proceeded to the point of consideration by the Joint Tribunal Panel Members and either party wants to submit further documentation or requests an extension of time in which to prepare further documentation to be submitted?**

The party concerned will need to inform their governing body immediately, sending them a copy of the relevant documentation/extension of time required. The governing bodies will then ask their appointed Joint Tribunal Panel member if they will allow either an extension of time to submit further documentation, or accept further documentation. If both Panel members are in agreement, this can then occur.

❖ **What happens if the respondent in a possible Joint Tribunal has failed to respond to a request to agree to be bound?**

If no response has been received within the requested 14 days, a chasing letter will be sent, requesting a response by return. If a response has still not been received within 7 days of the chasing letter, the matter is referred back to the Bar Council.

❖ **What happens if the Joint Tribunal comes to a decision that i do not agree/am not happy with?**

You agreed to be bound to the final decision of the Joint Tribunal by signing the Agreement to be Bound form at the commencement of the procedure, so you cannot dispute the Joint Tribunal decision. The Joint Tribunal decision is final. If a solicitor refuses to pay any award granted by the Joint Tribunal, the Withdrawal of Credit scheme will apply and the matter can be referred to the SRA.

❖ **What happens if the solicitor/solicitors practice in a possible Joint Tribunal has been made bankrupt?**

Firstly, proof of bankruptcy will need to be provided.

If sufficient proof is received, with which both the Law Society and the Bar Council are satisfied, the Joint Tribunal will not proceed and the case will be closed.

❖ **What happens to the documentation once a joint tribunal has been decided, the Joint Tribunal award has been paid and the file closed?**

Once both governing bodies have agreed the file is closed, the documentation will be destroyed, unless a specific request has been received from either party to have the documentation returned to them.