

Decision of Assistant Registrar of 1 May 2016 concerning complaint under Mandatory DIFC Courts Code of Conduct

In December 2015 a complaint concerning a practitioner registered in Part I of the DIFC DRA Academy of Law (AoL) Register of Practitioners (“the practitioner”) was received by the Registrar of the DIFC Courts. The complaint had been lodged by another registered practitioner.

The purported facts concerned in the main the alleged actions or inactions of the practitioner overseas, including supposed attempts to contact the other side’s client in the absence of their legal representatives.

The complaint was communicated to the parties under Sections 19 and 21 of the Mandatory DIFC Courts Code of Conduct – which provide respectively that: “Practitioners shall abstain from any behaviour which may tend to discredit the Court and the reputation of its Practitioners,” and that “Practitioners instructed in respect of a matter before the Court shall not initiate any communication about that matter directly with a party who is known to have retained another Practitioner to represent them in the matter...”

Section 21

Insofar as Section 21 of the Mandatory Code of Conduct was concerned, the Assistant Registrar found that as there were no relevant matters currently pending before the DIFC Courts relating to the circumstances of the complaint, the associated allegations would not, even if substantiated, fall within the scope of this provision.

Section 19

In respect of the wider provision requiring Practitioners to abstain from any behaviour which could discredit the Court and the reputation of its Practitioners, the Assistant Registrar concluded that the complaints had not been substantiated. Given the gravity of the allegations made, it was incongruous that the subject matter of the complaints had not been raised with the relevant police/prosecuting authorities and the fact that the Complainant had failed to reply to the additional specific questions put to them by the Assistant Registrar was noted. In sum, the Complainant’s silence, coupled with the lack of evidence in support of their serious allegations was found to be fatal to their complaint.

Moreover, the Assistant Registrar stressed the severity of allegations of breaches of professional conduct being directed against fellow DIFC Courts practitioners which were not ultimately capable of being established.