

Standard Operating Procedure for Engagement/Empanelment of Advocates/Law Firms/ Senior Counsels and Delegation of Powers

A. Empanelment of Advocates/Law Firms

Procedure for empanelment of Advocates/Law Firms:

- (1) The empanelment committee shall comprise of the following officers of the Authority:
- (a) GM/CGM (in charge of Legal Department);
 - (b) 2 Deputy General Manager (Law) / Assistant General Manager (Law).

- (2) The empanelment committee shall consider the following criteria for empanelment of an advocate-

- (i) experience;

Name of the court/forum	No. of years of practice (Minimum)
Supreme Court	15
High Court/National Consumer Commission	10
SAT	10
Civil Court	5
Sessions/Magistrate Court	5
State/District Consumer Commissions	5

- (ii) specialisation, if any, in the area of Insurance laws or Financial Sector Laws;
- (iii) nature of cases dealt with or being dealt with by the advocate/law firm;
- (iv) two preceding annual income-tax returns;
- (v) track record and integrity.

(3) Empanelment committee may require an advocate/law firm to make available self-attested copies of the following documents and may also require the originals for verification at any time during empanelment-

- (i) registration with the State Bar Council;
- (ii) identity card issued by Bar Association or State Bar Council;
- (iii) certificate of being an Advocate on Record (for Supreme Court)
- (iv) details of empanelment with other organisations;
- (v) list of major clients;
- (vi) list of reported cases if any argued by the Advocate/law firm

(4) If the advocate/law firm is empaneled by other regulators, statutory organisations, opinion of the regulators or organisations may also be obtained, where necessary.

(5) The empanelment committee may require the advocate to submit documentary proof of any suitability claim that may be made by him at any time during empanelment.

(6) The empanelment committee may call the Advocate to present before it for discussion to check his suitability for empanelment.

(7) There shall be a bar to all those Advocates/Law Firms who are empaneled that they shall not take any brief against the Authority before any Judicial Forum.

(8) After satisfying the suitability for empanelment, the committee may recommend the name of the advocate/law firm for empanelment with Authority and place it before the Whole Time Member in charge for approval.

Review of empanelment

Once in three years, the empanelment committee will review the performance of the empaneled advocates and may recommend for removal from panel, whose performance is not up to the mark or satisfactory. However, the existing cases assigned to such advocate will continue to be served by such advocate.

Removal from empanelment

(1) Where the empaneled advocate/law firm has committed or attempted to commit any of the following acts he may be removed from the panel after due recording, namely:-

- (a) failing to attend the hearing of the case without sufficient reason and without prior intimation to the Authority;
- (b) handing over the case or matter to another advocate without prior written permission of the Authority;
- (c) not acting as per the instructions or acting against any general or specific instructions;
- (d) making or allowing any of his associates or juniors to appear on behalf of any opposite party in any case or matter against the interests of the Authority;
- (e) arrest or detention or disbarment by the Bar Council;
- (f) Any other act committed by Advocate/law firm which is not in the interest of the Authority.

Fee Structure

The fee structure for empaneled advocates/law firms shall be as per the schedule of fees approved by the Chairman. The fee structure for the empaneled advocates/law firms will be reviewed every three years on the recommendations of Legal Fee Review Committee to be constituted by the Chairman/Whole Time Member in charge.

B. Engagement of Senior Counsels/Senior Advocates

Senior counsels/ Senior Advocates may be engaged in the following matters:

- a) Where main relief is directed against the Authority or Authority is the main respondent.
- b) Order/decision/direction of the Authority has been challenged.
- c) Regulations/Guidelines/ Notifications/Circulars issued by the Authority have been challenged.
- d) Provisions of IRDA Act, 1999, Insurance Act, 1938, Insurance Rules are challenged.
- e) Appeal under section 110 of Insurance Act, 1938 before Securities Appellate Tribunal (SAT).
- f) Appeal under section 15Z of the SEBI Act, 1992 before the Supreme Court against the order/decision of SAT.
- g) Appeal/Special Leave Petition in Supreme Court against the order/judgment of High Court/National Consumer Commission.

- h) Where the subject matter of the case directly or indirectly impacts policyholder at large or insurance sector in general.
- i) In any other matter with the approval of the Whole Time Member.

Other conditions:

- a) Senior Advocates/Senior Counsel shall be engaged in consultation with the HoD/In charge of the Functional Department and with the approval of the Whole Time Member in charge.
- b) In some cases, some Senior Counsels/Senior Advocates insist for advance payment. In such cases advance payment may be paid. But, as a matter of general practice, advance payment should be paid only in exceptional cases.

Fee Structure for Senior Counsels/Senior Advocates

As per Actuals / per hearings basis as charged by them.

C. Approval Process and delegation of powers in Court Matters

Sl. No.	Particulars	Approving Authority
1	Decision to defend IRDAI, Adjudicating Officer, Enquiry Officer or any of the provisions of Insurance Laws, Rules, Regulations, Guidelines, Circulars, etc. or any notices, letters etc. of IRDAI, or any order/decision/direction passed by IRDAI before SAT, any Court or Tribunal or Forum or any other Authority	GM/CGM (In charge of Legal Department)
2	Decision to defend IRDAI where IRDAI is a proforma party and main relief is claimed against other respondent/s	GM/CGM (In charge of Legal Department)
3	Approval for filing of suit, original petition, complaint, appeal, revision, review etc. against any order or judgment of any Court, SAT, other quasi-judicial Authorities, etc. or to become a party in any case	GM/CGM (In charge of Legal Department) in consultation with Functional Department and approval from the concerned Whole Time Member

4	Withdrawal of any petition, suit, complaint, appeal, prosecution etc. pending before any Court or Tribunal etc.	Whole Time Member/ Executive Director
5	Decision to defend Chairman and Members of the Authority (including former Chairman and Members of the Authority) where such Chairman/Member has been made a respondent or defendant in a matter which has arisen in discharge of or in connection with official activities in IRDAI	Executive Director after consultation with CVO IRDAI, where required with an intimation to the Authority
6	Decision to defend an officer or an employee of IRDAI (including ex officer and employee of IRDAI) a. where such officer or employee has been made a respondent or defendant in a matter which has arisen in discharge of or in connection with official activities b. in other cases	GM/CGM (In charge of Legal Department) after consultation with CVO IRDAI, wherever required Whole Time Member/ Executive Director after consultation with CVO IRDAI, wherever required
7	Approving the panel of Advocates/Law firm who can be engaged on behalf of IRDAI	Whole Time Member in charge on recommendation of Empanelment Committee
8	Approval for appointment Advocates/Law firm in a given case from the approved panel	DGM/GM/CGM (In charge of Legal Department)
9	Approval for appointment of Advocates/Law firm for a particular matter before any Court/Forum/Tribunal etc. where Advocate is not empaneled by IRDAI	GM/CGM (In charge of Legal Department)
10	Approval for engagement of Senior Advocates/Senior Counsels in a particular case.	Whole Time Member in charge

11	Payment of fees to Advocates/Law firm as per the schedule of fees approved by the Chairman from time to time Payment of fees to Senior Counsel/Senior Advocates as per Actuals / per hearings basis as charged by them	DGM/GM/CGM (In charge of Legal Department)
12	Fixing the class of airfare, conveyance, transport, boarding, lodging, the class of hotel/ accommodation and other expenses, where Advocates, Counsels or Senior counsels are engaged from place other than the place of Court where the matter is pending.	Executive Director
13	Approving higher fees beyond the schedule of fees approved for the panel in a given case depending upon the volume of work or number of hearings involved in a given case.	Whole Time Member/ Executive Director
14	Signing and affirming affidavit, reply, application, complaint, petition, written statement, counter, etc. to be filed before any Court, Tribunal, Forum, Authority (including Police Authorities viz. cyber cell, economics offences wing), etc. on behalf of IRDAI.	HOD/In charge of the functional department DGM of the functional department when HOD/In charge is on leave/tour
15	Executing and filing vakalatnama in favour of the Advocates/Law firm approved to be engaged on behalf of IRDAI	DGM (Law)/AGM (Law) dealing with the matter
16	Logistic matters viz. courier, notarization, etc.	DGM (Law)/AGM (Law) dealing with the matter

Note: The powers and functions delegated to the approving authority above can be exercised in his absence by any officer or authority higher in grade, rank or position to him.

D. Legal Opinion from outside expert

Sl. No.	Particulars	Approving Authority
1	Decision to obtain legal opinion from outside expert such as Ex-judges of High Courts / Supreme Court, Senior	Whole Time Member in charge in consultation

	Counsels, Advocate Generals, Solicitor General, Additional Solicitor General or Attorney General or Advocate or Law firm in a given case	with concerned Whole Time Member
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E. Removal of difficulty

If any difficulty arises in the implementation of this Standard Operating Procedure (SOP) or any doubt regarding the interpretation of any of the clauses of this Guidelines, the same shall be placed before the Chairperson and his decision in the matter shall be final.