

PRACTICE DIRECTION - ADJOURNMENTS

INTRODUCTION

The Discipline and Appeals Tribunals have the authority to adjourn a scheduled date, hearing or pre-hearing, where it is satisfied that the adjournment is required to allow for procedural fairness and natural justice.

In the event of inconsistency with the Rules of Practice, the Rules shall govern.

AUTHORITY

Rule 10 – Rules of Practice

Sec. 21 - Statutory Powers and Procedures Act

All requests for adjournments must:

- a) be in writing on the prescribed form;
- b) be directed to the attention of the Chair of the Discipline (or Appeals) Tribunal;
- c) be made at the earliest opportunity that the party becomes aware that an adjournment is required or at least 10 days prior to the next scheduled date;
- d) include reasons of the circumstances which require an adjournment and any relevant documents and/or other evidence; and
- e) include alternate dates available for the hearing.

In deciding whether or not to grant the request, the Chair of the Discipline Tribunal may consider any relevant factors found in Rule 10 (3), including but not limited to:

- (a) the reason for the request;
- (b) the extent to which prejudice will be suffered if the adjournment is refused;
- (c) the extent to which any other Party will suffer prejudice if the adjournment is granted;
- (d) the extent to which the requesting Party gave advance notice to other Parties and to a Panel of its request for an adjournment;
- (e) the consent of other Parties to the request;
- (f) whether the requesting Party previously consented to the Hearing going ahead on the scheduled date;
- (g) the length of the proposed adjournment;

(h) previous delays including the number and length of previous adjournments granted at the request of or with the consent of the Party now requesting an adjournment; and

(i) the public interest in the efficient and timely conduct of Proceedings.

A request must be made at the earliest opportunity that the party becomes aware that an adjournment is required or at least 10 days before the date set for the pre-hearing or hearing. If the reason for request arises less than 10 days before, the Chair of the Discipline (or Appeals) Tribunal may also consider if the reasons meet one of the following extenuating circumstances which include but are not limited to:

- death in the family;
- emergency health situation;
- personal matters of extreme crises; and
- new evidence which was not available at an earlier time and is critical to the case.

Adjournments are not granted as a right of the requestor. Notice of the date and time of a hearing have been sent well in advance of a hearing date. All parties have spent time and resources giving notice, preparing, and travelling for the hearing. Consideration should be given to whether an adjournment is necessary to allow for a fair hearing versus the cost of delay for all parties.

The Chair may require the parties attend in person to make submissions for (or against) an adjournment, even if all of the parties consent.

Any Order changing the date of a hearing should include conditions on the adjournment with respect to:

- New date, time and location of the hearing;
- Conditions, if any, imposed on the requestor;
- Disclosure of documents and timing of delivery of any additional disclosure; and
- Exchange witness statements and reports of expert witnesses, if requested or ordered.