

PRACTICE DIRECTION – APPROACH TO ORDERING COSTS

1. INTRODUCTION

The purpose of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal is:

- To provide fair, open, and accessible process for Parties and other interested persons;
- To increase the efficiency and timeliness of Proceedings;
- And to assist the Discipline Tribunal and Appeals Tribunal in fulfilling their mandates

The Panel hearing a matter may make an order at any stage of the Proceedings as to costs payable by one Party to another Party. This Practice Direction is issued to provide additional clarity on the criteria a Hearing Panel might consider when deciding to order costs.

2. AUTHORITY

RULE 13 – COSTS

ENTITLEMENT TO COSTS

- 13.01 (1) Upon the request of a Party, the Panel hearing a matter may make an order at any stage as to costs payable by one Party to another Party.
- (2) Requests for costs shall be made, as set out in Form 13A, unless a Party satisfies the Panel that to do so is likely to cause the party significant prejudice.
- (3) Unless the Panel otherwise permits, a request for costs must be Served on all other Parties and the H.O. by the requesting Party as soon as the circumstances requiring the notice become known and, in any event, at least fifteen (15) days before the request for costs is to be argued.

AMOUNT OF COSTS

- 13.02 (1) The amount of costs that may be ordered can include the legal fees of a Party and/or reasonable disbursements or expenses related to the Proceedings.
- (2) In this Rule, legal fees include deemed fees for in-house Legal Practitioners.

3. WHEN A REQUEST FOR COSTS IS TO BE MADE

The request for costs may be made at any stage of the Proceeding, before the final decision or order has been released by the Panel.

4. FACTORS RELEVANT TO DECIDING WHETHER TO ORDER COSTS

When considering a request to order costs under Rule 13, the Panel will take into account the following factors:

- (a) Whether a Party's or the Party Representative's conduct was unreasonable, improper, or caused an unnecessary delay or expense;
- (b) The potential impact an order for costs would have on the Parties;
- (c) Any other factors the Panel considers relevant

5. Factors Relevant to Deciding Amount of Costs

If the Panel decides that an order for costs is warranted, the appropriate amount will be determined. Some of the factors that the Panel may consider include:

- (a) The seriousness of the misconduct.
- (b) Whether the misconduct was in breach of the Tribunal's order or direction
- (c) Prejudice to other Parties
- (d) Whether the costs are reasonable and were reasonably incurred.