

Professional Conduct Procedure

PR12 - Protocol for Adjournment Applications

Under paragraph 4.13 of the Professional Conduct Procedure (PCP), the Panel may, on the application of either party or of its own initiative, adjourn a hearing if it considers that to do so is in the interests of justice.

Under paragraph 5.9 of the PCP, the Panel may adjourn a hearing where a party fails to attend.

In exercising its discretion to adjourn a hearing the Panel must have regard to this Protocol.

An adjournment may be needed for various reasons, including for example, where one of the parties has a medical condition which would prevent or restrict them from taking part in the hearing.

A party requesting an adjournment must:

- provide evidence showing why it is required
- If the adjournment is requested on medical grounds, provide medical evidence which sets out their medical condition and the reason why it prevents their participation in the hearing
- confirm the length of the adjournment that they seek
- confirm that they have sought agreement from the other party and indicate whether they consent to the adjournment.

The Panel may grant an adjournment for any period that it considers appropriate.

If at any stage, no or insufficient evidence is provided to justify an adjournment, an adjournment will not be granted, and the hearing will continue.

Where the Panel does grant an adjournment, it will direct that a date for the hearing be fixed by the Case Manager. The Panel also may consider it appropriate to extend any deadline given to the parties for the submission of evidence.

Factors relevant to a decision to adjourn

In considering an adjournment, the Panel must consider whether the adjournment would be in the interests of justice in all the circumstances but should have regard to:

- the reasons for the adjournment
- the timeliness of the application
- the public interest in complaints being dealt with fairly and expeditiously
- the potential prejudice to the party requesting the adjournment if the request is refused
- the potential prejudice to the Member if the request is granted
- any prejudice to a non-party if the request is refused or granted
- whether the circumstances giving need for an adjournment were self-induced or involved any misconduct by the applicant
- the need for finality for the parties
- whether an adjournment has already been granted
- the length of time since alleged unprofessional conduct occurred
- the length of time since the complaint was made
- the length of the adjournment sought
- the risk that the quality of evidence available concerning the complaint will deteriorate over time

Guidance relating to requests for an adjournment concerning the following circumstances:

- Retention of legal representation.

The inability of the Member to secure a legal representative, whether for financial or other reasons, will not normally be regarded as justification for an adjournment.

- Availability of legal representations.

The unavailability of a legal representative would not be an adequate reason of itself to adjourn a hearing, as another legal representative could be appointed. However, the Panel might grant an adjournment if a legal representative is unavailable at short notice, in unforeseen circumstances. For example, illness or bad weather which prevents travel to the hearing.

- Unavailability of material witness.

It may be appropriate to grant an adjournment where a key witness is unavailable. Generally, it is the responsibility of the party calling the witness to ensure that they attend at the time set for the hearing.

When an adjournment is requested, the Panel will consider the impact of the unavailable witness on a party's ability to present its case, along with the reason why the witness is unavailable. If the party can present their case without the witness, it may be appropriate

to deny the adjournment. However, where the witness is potentially determinative of a party's case, it may be unfair to proceed without the evidence.

- Illness of a Panel member, Member, representative, legal representative or material witnesses.

An adjournment may be granted if one of the parties or a member of the Panel is unexpectedly ill, and their absence will materially impact the proceedings.