

SOLICITORS DISCIPLINARY TRIBUNAL

Guidance Note: Adjournments

1. Rule 23 of the Solicitors (Disciplinary Proceedings) Rules 2019 (“SDPR”) makes provision in respect of applications for Adjournments. This Guidance applies to proceedings before the Tribunal. It is issued as guidance (**not** as a Practice Direction) by the Policy Committee of the Tribunal.
2. The Guidance is intended to assist Applicants and Respondents wishing to make an application for an Adjournment to the Solicitors Disciplinary Tribunal (“the Tribunal”). It is not intended to replace or vary the SDPR. It applies to cases certified by the Tribunal as showing a case to answer on or after 25 November 2019 and is subject to review by the Tribunal from time to time.
3. Rule 23 states:
 - “(1) An application for an adjournment of the hearing of an application must be supported by documentary evidence of the need for the adjournment.
 - (2) An application for an adjournment made more than 21 days before the hearing date will be considered by a clerk or a single solicitor member on the papers.
 - (3) An application for an adjournment made 21 days or less before the hearing date will be considered by the panel listed to sit on the substantive hearing on the papers unless it is in the interests of justice for the matter to be dealt with at an oral hearing.”
4. An application for an adjournment should be made in the prescribed form and should:
 - a) Indicate the full reasons why an adjournment is being sought;
 - b) Provide documentary evidence in support e.g. medical reports; and
 - c) State whether the other party to the proceedings supports or opposes the application for an adjournment. For the avoidance of doubt any application and supporting documents must be sent to all other parties unless the Tribunal directs otherwise.

5. The Tribunal will be reluctant to agree to an adjournment unless the request is supported by both parties or, if it is not, the reasons appear to the Tribunal to be justifiable because not to grant an adjournment would result in injustice to the person seeking the adjournment.
6. The following reasons will not generally be regarded as providing justification for an adjournment:

a) The Existence of Other Proceedings

The existence or possibility of criminal proceedings unless the criminal proceedings relate to the same or substantially the same underlying facts as form the basis of the proceedings before the Tribunal AND there is a genuine risk that the proceedings before the Tribunal may 'muddy the waters of justice' so far as concerns the criminal proceedings. Proceedings which are not imminent will not usually meet this criterion. Civil proceedings are even less likely to do so.

b) Lack of Readiness

The lack of readiness on the part of either Applicant or Respondent or any claimed inconvenience or clash of engagements whether professional or personal.

c) Ill-health

The claimed medical condition of the Applicant or Respondent unless this is supported by a reasoned opinion of an appropriate medical adviser. A doctor's certificate issued for social security and statutory sick pay purposes only or other certificate merely indicating that the person is unable to attend for work is unlikely to be sufficient.

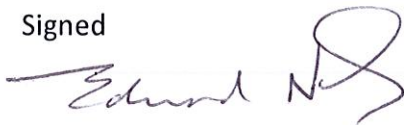
d) Inability to Secure Representation

The inability of the Applicant and/or Respondent for financial or other reasons to secure the services of a representative at the hearing or financial reasons for the non-attendance of the Respondent.

7. The Tribunal accepts that there may be reasons why an application for an adjournment needs to be made within a three week period before the date which has been fixed for the Hearing. Except for cases where the reason for the adjournment application has genuinely arisen at a very late stage, the Tribunal will expect the Respondent to support a late application for adjournment with a statement of truth as to the reasons for the sought adjournment.

8. Where this Guidance is not followed, Applicants and Respondents will appreciate that the Tribunal may, in its discretion and in appropriate cases, order costs to be paid by either or both parties regardless of the outcome of the substantive proceedings.
9. If a hearing needs to be listed to consider the adjournment application the Clerk will endeavour to list the adjournment hearing on a date before that fixed for the substantive hearing.
10. Those appearing before the Tribunal should be conscious of the need to ensure that cases are heard with reasonable expedition so that the interests of the Public as well as the Profession can be protected .The efficient and timely determination of cases before the Tribunal will usually be in the best interests of all concerned and the Tribunal will always need to be satisfied that the interests of justice in any particular case will be best served by agreeing to an adjournment. The Tribunal can (and does, therefore, in appropriate cases,) exercise its right under the Rules to reject an application for an adjournment and proceed with a substantive hearing on the date which has been previously fixed. The Rules provide that such a hearing may take place in the absence of the Respondent.
11. Every application for adjournment will be considered on its own merits and this practice note is made to provide assistance as to matters which the Tribunal will regard as relevant to any such application, and to identify matters which in the experience of the Tribunal are frequently relied upon in support of applications but which, save in exceptional circumstances, the Tribunal does not currently regard, and would in the future be similarly unlikely to regard as persuasive in themselves.

Signed



Edward Nally
President of the Solicitors Disciplinary Tribunal
On behalf of the SDT Policy Committee

Dated 6th November 2019