

Guidance on requests for adjournments of ACCA's Regulatory and Disciplinary Committees

INTRODUCTION

- 1 This Guidance on requests for adjournments of ACCA's Regulatory and Disciplinary Committees ('The Guidance') sets out the factors that Chairman and Panel Members, including the Disciplinary Committee, Admissions and Licensing Committee, Interim Orders Committee, Health Committee and Appeal Committee should consider in deciding whether a hearing should be adjourned, either on application by one of the parties or of their own volition. It is designed to manage regulatory risk, provide transparency of policies and procedures and ensure consistency of approach.
- 2 It is ACCA's aim to dispose of cases expediently, having regard to the public interest and the interests of the respondent member, firm or student. Where a party requests an adjournment it is unlikely to be granted unless there is a good reason to justify delaying the hearing of the case.
- 3 When a case has been referred for a hearing, the relevant person will be informed of the date on which the hearing will take place. The papers for the hearing will then be sent to the relevant person at least 28 days before the hearing date.
- 4 A request for an adjournment of a hearing will be considered on its merits.

FACTORS TO BE CONSIDERED

- 5 Before making a decision to adjourn a hearing, the Chairman or the Committee will take into account the circumstances of the case. This will include any written submissions the parties may have made and the effect of any delay on the fairness of the proceedings. In *Crown Prosecution Service v Picton*¹, Mr Justice Jack stated:
"It is not possible or desirable to identify hard and fast rules as to when adjournments should or should not be granted. The guiding principle must be that Justices should fully examine the circumstances leading to applications for delay, the reasons for those applications and the consequences both to the prosecution and the defence. Ultimately, they must decide what is fair in the light of all those circumstances."
- 6 In considering the request for an adjournment, the Chairman or the Committee will take into account the following:
 - The relevant person's reasons for an adjournment and supporting evidence, including the gravity and significance of the reasons;
 - The public interest in the expeditious disposal of the case;
 - The likely consequences of the proposed adjournment on both parties and in particular the need to decide the facts while recollections are fresh;

- The potential inconvenience caused to a party or any witnesses to be called by that party;
- Fairness to the member;
- The length of time the party has been on notice of the intended proceedings. It is likely that where relevant person have been on notice for at least the timescales set out in the Rules an adjournment will not be granted;
- The length of time that has elapsed since notice of the proceedings was served on the party and the request for adjournment being made. The longer the time period that has passed the less likely it is that an adjournment will be granted;
- The time remaining before the hearing is due to commence;
- Whether the case has previously been adjourned;
- Whether the party seeking the adjournment could have made alternative arrangements, such as seeking alternative representation;
- The attempts made by the parties to prepare for the hearing. Where the relevant person has made no attempt or insufficient attempts to prepare for a hearing the adjournment is unlikely to be granted unless the relevant person has good reason for not doing so;
- The interests of the party seeking the adjournment, including whether an adjournment will enable the Committee to have the benefit of further relevant information at a hearing which would otherwise not be available;

- The length of adjournment sought. The Committee may take the view that an adjournment for a shorter period of time than that sought by the parties will be sufficient;
- The response of the other party to the relevant person's request.

7 The list of factors above is not exhaustive and will depend upon the particular circumstances of each case.

8 The Chairman or the Committee will exercise their professional judgement, the crucial test being that the relevant person is entitled to a fair hearing but that the convenience of the parties or their representatives is not a sufficient reason for an adjournment.

8 In the event the relevant person requests an adjournment, a copy of the request will be sent to the other party to the proceedings allowing them an opportunity to make submissions in response to the request.

PRE-NOTICE OF HEARING PROCEDURE

9 If the relevant person requests an adjournment before the papers have been sent out, ACCA may agree to the adjournment if there is good reason to do so. In the event ACCA opposes the adjournment, the Chairman of the Committee will be asked to make a decision.

POST NOTICE OF HEARING PROCEDURE

10 Where a relevant person requests an adjournment after the papers have been sent out, the Chairman of the Committee will be asked to make a decision. ACCA will be given an opportunity to state whether it opposes the adjournment.

11 In the event the Chairman does not agree to the adjournment, the Committee can reconsider a relevant person's request at the start of the hearing. The Chairman will be entitled to participate in the reconsideration of the request. If the Committee refuses the request for an adjournment, the case will proceed on that day. Where the Committee grants a relevant person's request for an adjournment, the case will be adjourned to another date.

PROCEDURE FOR MAKING AN APPLICATION

12 A request for an adjournment must be made in writing (letter or email) and sent ACCA's Hearings Team as soon as possible. The request is unlikely to be granted if it does not comply with the following requirements:

- The relevant person must explain in detail why the adjournment is needed;
- The relevant person must provide independent documentary evidence to support the request for an adjournment such as medical evidence, evidence of travel arrangements or attempts to contact witnesses, etc.;
- An application for an adjournment on medical grounds should normally be supported by a letter from a doctor and/or any medical evidence which expressly states that the person concerned is too ill to attend a hearing.

WHAT HAPPENS IF ADJOURNMENT IS GRANTED?

13 Please be aware that if an adjournment is granted, the relevant person may be ordered to pay any costs associated with the hearing having to be adjourned.

14 The relevant person may also be ordered to comply with directions or conditions. For example, the relevant person may be ordered to:

- Produce any necessary documents and supply any other information and explanations relevant to the matter in question;
- Allow any officer of ACCA to enter relevant person's business premises and interview any employees;
- Procure the attendance of any of the relevant person's employees at specific premises;
- Have the relevant person's fitness and propriety to hold a certificate and/or licence and/or eligibility to conduct exempt regulated investment activities considered by the Admissions and Licensing Committee;
- Serve any additional evidence by a specified date.

15 Any directions or conditions on adjournment may be published if the Committee so directs

16 In the event that a hearing is adjourned, the Committee may, upon either its own motion or ACCA's application, reconstitute itself as an Interim Orders Committee for the purpose of deciding whether or not it is necessary to make an interim order in order to protect the public. Such an interim order may be to:

- Suspend the relevant person's membership until further order of the Interim Orders Committee or of any other Committee;

- Suspend or place conditions upon any certificate or licence the relevant person holds from ACCA or his eligibility to conduct exempt regulated investment activities until further order of the Interim Orders Committee or any other Committee.

17 The conditions, directions and interim orders set out above are in summary form only. Further details of the relevant regulations can be found:

- Admissions and Licensing Committee hearings: Regulation 6(8) of the Authorisation Regulations;
- Regulation 10(8) of the Complaints and Disciplinary Regulations;
- Regulation 3(3) of the Interim Order Regulations.

http://www.accaglobal.com/content/dam/ACCA_Global/Members/Doc/rule/2018-rulebook.pdf

AVAILABLE ACCA GUIDANCE

Relevant persons can access all relevant guidance on ACCA's website at:

<http://www.accaglobal.com/uk/en/member/standards/committees.html>

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