

Chiropractors Council

Practice Directions on Disciplinary Inquiries

The following Practice Directions are designed to provide guidance to parties and to ensure efficient and fair conduct of disciplinary inquiries of the Chiropractors Council. These Practice Directions should be read in conjunction with Part IV (sections 16 – 21) of the Chiropractors Registration Ordinance and Parts 4 – 6 (sections 15 - 38) of the Chiropractors (Registration and Disciplinary Procedure) Rules.

Arrangements for inquiry

1. The respondent is strongly advised to obtain legal representation as early as possible, as an inquiry is a serious matter and it is often difficult for an unrepresented respondent to deal with the legal arguments and procedures involved. It should also be remembered that if the respondent is found guilty, the Inquiry Committee may make disciplinary orders affecting the respondent's right to practise chiropractic (including removal from the Register of Registered Chiropractors).
2. The respondent will be notified of the date of the inquiry at least 28 days in advance. If the scheduled date is postponed for any reason (e.g. typhoon or rainstorm warning), the Secretary will notify the respondent of the new date fixed by the Chairman of the Inquiry Committee as soon as practicable.
3. Owing to the arrangements involved (in particular arrangements made by witnesses and Inquiry Committee Members to attend the inquiry), a scheduled inquiry will not be postponed unless there are cogent and valid reasons. If there are cogent and valid reasons, application for postponement should be made in writing well in advance of the scheduled date.
4. In the absence of exceptional reasons, the Inquiry Committee will not postpone a scheduled inquiry on the ground of lack of legal representation if the respondent has not exercised due diligence in obtaining legal representation.
5. If an inquiry is commenced and adjourned part-heard, the Inquiry Committee will arrange for it to resume as soon as possible. Parties are required to give priority to the inquiry. An inquiry will usually not be adjourned for more than 3 months unless there are exceptional circumstances.

6. If there are preliminary applications in relation to the inquiry, such applications should be made in writing setting out the full reasons as early as possible before the scheduled date. The opposite party will be given the opportunity to respond before a decision is made.

Witnesses

7. A witness (other than an expert witness) should not be present in the inquiry before he/she is called to give evidence.
8. An expert witness will usually be permitted to be present throughout the inquiry, so that he/she may provide expert opinions based on the factual evidence given at the inquiry. The relevant party should apply for such permission at the beginning of the inquiry.
9. If the respondent gives evidence, he/she shall do so before other defence witnesses are called to give evidence.
10. An inquiry is conducted in English. Parties should inform the Secretariat at least 14 days before the inquiry the language spoken by their witnesses, so that simultaneous interpretation can be arranged if necessary.

Evidence

11. An inquiry is inquisitorial in nature. It shall not be conducted as a trial by ambush which is strongly disapproved of. In order to ensure that both sides can properly prepare for the inquiry, the following should be complied with:-
 - (i) Documentary evidence to be adduced in support of a party's case should be provided to the opposite party as early as possible, in any case not less than 10 days before the inquiry. A party applying for departure from the 10-day rule must justify the application with good reasons.
 - (ii) If expert evidence is involved, expert reports should be provided to the other side as early as possible (in any case not less than 10 days before the inquiry).
 - (iii) For each witness (including the respondent) who will give evidence, a written witness statement should be prepared and provided to the opposite party not less than 10 days before the inquiry. Subject to parties' views, the witness statements will usually be adopted as evidence-in-chief.

12. Separate hearing bundles should be compiled by the Secretary and the Respondent (marked as “Secretary’s Bundle” and “Respondent’s Bundle” respectively) as follows:-
 - (i) A bundle should include copies of documentary evidence and written statements of witnesses, to be arranged in chronological order (except the notice of inquiry and the complaint letter which should be the first items). Case authorities are not evidence and should not be included.
 - (ii) The bundle should be paginated at the top or bottom right corner.
 - (iii) An index (with: (a) a letter or number assigned to each item, (b) description and date of the document, and (c) the page reference in the bundle) should be placed at the beginning of the bundle.
 - (iv) Voluminous appendices which have already been attached to a previous document in the bundle should not be repeated in subsequent documents. Instead, the appendices in subsequent documents should be replaced by a blank page for each appendix with a remark “Appendix (xx) can be found at pages (xx)”.
13. Originals of documentary evidence should be produced at the inquiry. Explanation is required for the lack of the originals.
14. A typescript should be prepared for handwritten documents (particularly clinical records) and agreed between parties, unless the handwriting is clearly legible. If the document is lengthy and only a particular portion is relevant, a typescript of only the relevant portion is required.
15. Clinical records should be accompanied by a key to the abbreviations and symbols used.
16. Any objection to admissibility of particular documents should be indicated to the other side together with the grounds of objection within 5 days after receipt of the bundle.
17. A chronology of relevant events should be prepared in more complicated cases. If a particular entry in the chronology cannot be agreed, it should be indicated by a remark “(disputed by Secretary)” or “(disputed by Respondent)”.
18. If there are undisputed facts, admitted facts should be drawn up in order not to waste time on proving such undisputed facts. Saving of time by such admissions at the inquiry and remorse reflected by admission of the charge(s) are mitigating factors which will be taken into consideration in deciding on the disciplinary order.

19. Each party should try to give to the opposite party advance notice of case authorities which will be cited, so as to give sufficient time for proper preparation and to avoid delay.

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